

THE  
CENTRAL PROVINCES CODE.

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GOVERNMENT OF INDIA.  
LEGISLATIVE DEPARTMENT.

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THE  
CENTRAL PROVINCES CODE,

CONSISTING OF

THE BENGAL REGULATIONS, LOCAL ACTS OF THE  
GOVERNOR GENERAL IN COUNCIL AND ACTS OF  
THE CHIEF COMMISSIONER OF THE CENTRAL  
PROVINCES IN COUNCIL IN FORCE IN THE  
CENTRAL PROVINCES ;

WITH AN

APPENDIX

CONTAINING

A LIST OF THE ENACTMENTS WHICH HAVE BEEN APPLIED  
TO THE SCHEDULED DISTRICTS OF THE CENTRAL PRO-  
VINCES BY NOTIFICATION UNDER THE SCHEDULED  
DISTRICTS ACT, 1874 ;

AND AN

INDEX.

FOURTH EDITION.

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## P R E F A C E.

**T**HIS, the fourth edition of the Central Provinces Code, has been prepared on the same lines as the last edition. Part I contains the Bengal Regulations and Part II the Local Acts of the Governor General in Council in force in the Central Provinces. Part III, which has been added, contains the Acts passed by the Central Provinces Legislative Council which was constituted on November 10th, 1913.\* All enactments are printed as modified up to the end of 1917.

2. A Chronological Table showing how the enactments printed in this volume have been affected, in the Central Provinces, by later legislation, has been prefixed, and at the end has been placed an Appendix containing a list of the enactments applied to the Scheduled Districts of the Central Provinces under the Scheduled Districts Act, 1874.

3. The General Acts of the Governor General in Council which apply to the Central Provinces in common with other parts of British India will be found in the volumes of the Un-repealed General Acts published by the Legislative Department. Rules and Orders issued under enactments applying to the Central Provinces will be found in the publication (issued by the Local Administration) which is referred to in the footnotes in this volume as "The Central Provinces Local Rules and Orders."

S. C. GUPTA,

*Legal Assistant, Legislative Department,  
Government of India.*

SMILLA ;

*The 5th June, 1918.*

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\* See Proclamation dated 8th November, 1913, in the *Gazette of India*, November, 1913, Part I, pages 1068 and 1069.



# CHRONOLOGICAL TABLES.

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1804	X	<sup>2</sup> The Bengal State Offences Regulation, 1804.	Rep. in part, Act XVI of 1874, Act XII of 1891.	2
1806	XI	<sup>2</sup> The Bengal Troops Transport and Travellers Assistance Regulation, 1806: sections 2-6, and 8.	Supplemented, Ben. Reg. VI of 1825. Rep. in part, Act XII of 1891; and amended, Act V of 1897. Amended, Act XX of 1875, s. 3.	4
1812	XI	<sup>2</sup> The Bengal Foreign Immigrants Regulation, 1812.	Rep. in part, Act XVI of 1874; and amended, Act V of 1897. Amended, Act XX of 1875, s. 3; Act XIII of 1898; Act I of 1903.	9
1818	III	<sup>2</sup> The Bengal State Prisoners Regulation, 1818.	Rep. in part, Act XVI of 1874; Act I of 1903. Amended, Act XII of 1891. Supplemented, Act XXXIV of 1850; Act III of 1858.	12
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<sup>1</sup> These Regulations were declared in force by Act XX of 1875, s. 3, *infra*, p. 60.

<sup>2</sup> These short titles were given by the Amending Act, 1897 (V of 1897), General Acts, Vol. IV.

**PART II.—LOCAL ACTS OF THE GOVERNOR GENERAL IN COUNCIL IN FORCE IN THE CENTRAL PROVINCES.**

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<sup>1</sup> Secs. 21-23 and 25-29 of Act XIII of 1857 were declared in force by Act XX of 1875, s. 3, *infra*, p. 60.

<sup>2</sup> This short title was given by the Amending Act, 1903 (I of 1903), Bengal Code.

<sup>3</sup> This short title was given by the Amending Act, 1897 (V of 1897), Genl. Acts, Vol. IV.

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\* This short title was given by the Amending Act, 1897 (V of 1897), General Acts, Vol. IV.

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# THE CENTRAL PROVINCES CODE.

## PART I.

### THE BENGAL REGULATIONS IN FORCE IN THE CENTRAL PROVINCES.

#### BENGAL REGULATION V OF 1799.<sup>1</sup>

[THE BENGAL WILLS AND INTESTACY REGULATION, 1799.]

[3rd May, 1799.]

<sup>2</sup>A Regulation to limit the interference of the Zila \* \* <sup>3</sup>Courts of Dīwānī Adālat <sup>4</sup> in the execution of wills and administration to the estates of persons dying intestate.

4. If there be more heirs than one to the estate of a person dying intestate, and they can agree amongst themselves in the appointment of a common manager, they are at liberty to take possession, and the Courts of Justice are restricted from interference, without a regular complaint, as in the case of a single heir;

If there be more heirs than one to estate of intestate.

but if the right of succession to the estate be disputed between several claimants, one or more of whom may have taken possession, the Judge, on a regular suit being preferred by the party out of possession, shall take good and sufficient security from the party or parties in possession for his or their compliance with the judgment that may be passed in the suit; or, in default of such security being given within a reasonable period, may give possession until the suit may be determined, to the other claimant or claimants who may be able to give such security, declaring at the same time that such possession is not in any degree to affect the right of property at issue between the parties, but to be considered merely as an administration to the estate for the benefit of the heirs who may, on investigation, be found entitled to succeed thereto.

<sup>5</sup>5. In the event of none of the claimants to the estate of a person dying intestate being able to give the security required by the preceding section, and

In what cases Judge may appoint

<sup>1</sup> Ss. 4, 5 and 6 of Ben. Reg. V of 1799 were declared in force in the Central Provinces by the Central Provinces Laws Act, 1875 (XX of 1875), s. 3 and sch., *infra*, p. 60.

<sup>2</sup> Short title, the Bengal Wills and Intestacy Regulation, 1799, see the Amending Act, 1897 (V of 1897), General Acts, Vol. IV.

<sup>3</sup> The words "and city" were repealed by the Repealing and Amending Act, 1891 (XII of 1891).

<sup>4</sup> The functions of the Court of "Sadr Dīwānī Adālat" are performed by the Judicial Commissioner, see the Central Provinces Laws Act, 1875 (XX of 1875), s. 3 and sch., *infra*, p. 60.

<sup>5</sup> S. 5 has been modified by Ben. Reg. V of 1827, *infra*, p. 20.

administrator  
for care and  
management  
of estate of  
intestate.

in all cases wherein there may be no person authorized and willing to take charge of the landed estate of a person deceased, the Judge within whose jurisdiction such estate may be situated (or in which the deceased may have resided, or the principal part of the estate may lie, in the event of its being situated within two or more jurisdictions) is authorized to appoint an administrator for the due care and management of such estate, until, in the former case, the suit depending between the several claimants shall have been determined, or, in the latter case, until the legal heir to the estate, or other person entitled to receive charge thereof as executor, administrator or otherwise, shall attend and claim the same; when, if the Judge be satisfied that the claim is well founded, or if the same be established after any inquiry that may appear necessary, the administrator appointed by the Court shall deliver over the estate to him, with a full and just account of all receipts and disbursements during the period of his administration.

Security to be  
taken from,  
and allow-  
ances paid to,  
administra-  
tor.

6.<sup>1</sup> In all instances of an administrator being appointed under this Regulation, he is, previous to entering upon the execution of his office, to give good security for the faithful discharge of his trust in a sum proportionate to the extent thereof; and the Judge appointing him is authorized to fix for him (subject to the approbation of the Court of Sadr Dīwānī Adālat,<sup>2</sup> to whom a report is to be made in such instances) an adequate personal allowance to be paid out of the proceeds of the estate, and to be a percentage thereupon, after deducting the expenses of management.

## BENGAL REGULATION X OF 1804.<sup>3</sup>

[THE BENGAL STATE-OFFENCES REGULATION, 1804.]

[14th December, 1804.]

A Regulation for declaring the powers of the Governor General in Council to provide for the immediate punishment of certain offences against the State by the sentence of Courts-martial.

Preamble.

1. WHEREAS, during wars in which the British Government has been engaged against certain of the Native Powers of India, certain persons owing allegiance to the British Government have borne arms in open hostility to the

<sup>1</sup> S. 6 has been modified by Ben. Reg. V of 1827, *infra*, p. 20.

<sup>2</sup> The functions of the Court of "Sadr Dīwānī Adālat" are performed by the Judicial Commissioner, *see* the Central Provinces Laws Act, 1875 (XX of 1875), s. 3 and sch., *infra*, pp. 60 and 63.

<sup>3</sup> Ben. Reg. X of 1804 was declared in force in the Central Provinces by Act XX of 1875, s. 3 and sch., *infra*, pp. 60 and 63.

Short title, the Bengal State Offences Regulation, 1804, *see* the Amending Act, 1897 (V of 1897), General Acts, Vol. IV.

authority of the same, and have abetted and aided the enemy, and have committed acts of violence and outrage against the lives and properties of the subjects of the said Government ;

and whereas it may be expedient that, during the existence of any war in which the British Government in India may be engaged with any Power whatever, as well as during the existence of open rebellion against the authority of the Government, in any part of the British territories subject to the government of the Presidency of Fort William, the Governor General in Council should declare and establish martial law within any part of the territories aforesaid, for the safety of the British possessions and for the security of the lives and property of the inhabitants thereof, by the immediate punishment of persons owing allegiance to the British Government who may be taken in arms in open hostility to the said Government, or in the actual commission of any overt act of rebellion against the authority of the same, or in the act of openly aiding and abetting the enemies of the British Government within any part of the territories above specified ;

the following Regulation has been enacted by the Governor General in Council, to be in force throughout the British territories immediately subject to the Government of the Presidency of Fort William from the date of its promulgation.

2. The Governor General in Council is hereby \* \* \* <sup>1</sup> empowered to suspend, or to direct any public authority or officer to order the suspension of, wholly or partially, the functions of the ordinary Criminal Courts of Judicature within any zila, district, city or other place, within any part of the British territories subject to the government of the Presidency of Fort William, and to establish martial law therein, for any period of time while the British Government in India shall be engaged in war with any Native or other Power, as well as during the existence of open rebellion against the authority of the Government, in any part of the territories aforesaid ;

Power in time of war to suspend functions of ordinary Criminal Courts, and establish martial law ;

and also to direct the immediate trial, by Courts-martial, of all persons owing allegiance to the British Government, either in consequence of their having been born, or of their being residents, within its territories and under its protection, who shall be taken in arms in open hostility to the British Government, or in the act of opposing by force of arms the authority of the same, or in the actual commission of any overt act of rebellion against the State, or in the act of openly aiding and abetting the enemies of the British Government within any part of the said territories.

and to direct immediate trial by Courts-martial of lieges offending against Regulation.

3. \* \* \* \* \* <sup>1</sup> Any person born or residing under the protection of the British Government within the territories aforesaid, and

Lieges convicted by

<sup>1</sup> The words "declared to be" in s. 2, and the words "It is hereby further declared that" in s. 3 were repealed by the Amending Act, 1891 (XII of 1891).

Court-martial of crime specified in section 2 liable to immediate punishment of death;

and to forfeiture of property.

Governor General not precluded from causing persons charged with offences to be tried by ordinary Courts.

consequently owing allegiance to the said Government, who, in violation of the obligations of such allegiance, shall be guilty of any of the crimes specified in the preceding section, and who shall be convicted thereof by the sentence of a Court-martial, during the suspension of the functions of the ordinary Criminal Courts of Judicature and the establishment of the martial law, shall be liable to the immediate punishment of death, and shall suffer the same accordingly, by being hung by the neck till he is dead.

All persons who shall, in such cases, be adjudged by a Court-martial to be guilty of any of the crimes specified in this Regulation shall also forfeit to the British Government all property and effects, real and personal, which they shall have possessed within its territories at the time when the crime of which they may be convicted shall have been committed.

4. The Governor General in Council shall not be precluded by this Regulation from causing persons charged with any of the offences described in the present Regulation to be brought to trial, at any time before the ordinary Courts of Judicature, \* \* \* \*<sup>1</sup> instead of causing such persons to be tried by Courts-martial, in any cases wherein the latter mode of trial shall not appear to be indispensably necessary.

## BENGAL REGULATION XI OF 1806.<sup>2</sup>

### [THE BENGAL TROOPS TRANSPORT AND TRAVELLER'S ASSISTANCE REGULATION, 1806.]

[3rd July, 1806.]

A Regulation for facilitating the progress of detachments of troops through the Company's territories; for affording any requisite assistance to persons travelling through those territories \* \* \* \*<sup>3</sup>

Notice to be given to Collectors

2. Whenever a detachment of troops, or a single corps, shall be ordered to proceed, by land or by water, through any part of the Company's

<sup>1</sup> The words and figures "or before any special court appointed for the trial of such offences under Regulation IV, 1799, and Regulation XX, 1803," were repealed by the Repealing and Amending Act, 1874 (XVI of 1874).

<sup>2</sup> Ss. 2 to 6 and s. 8 of Ben. Reg. XI of 1806 (with the exception of such part as authorizes Collectors and their Native officers, or Magistrates and their police officers, to give their official aid in procuring coolies for the purpose of facilitating the march of troops or the progress of travellers, and with the exception of certain words and figures in s. 8) were declared in force in the Central Provinces by the Central Provinces Laws Act, 1875 (XX of 1875), s. 3 and sch., *infra*, pp. 60 and 63-64.

Short title, the Bengal Troops Transport and Travellers Assistance Regulation, 1806, *see* the Amending Act, 1897 (V of 1897), sch. 3, General Acts, Vol. IV.

<sup>3</sup> The rest of the title was repealed by the Amending Act, 1891 (XII of 1891).

territories, the commanding officer of such detachment or corps is required to give the earliest practicable notice to the Collectors of the revenue of the zilas through which the troops are to pass of the probable time of their arrival within such districts respectively ; together with information of the probable period of their arrival at the particular places where supplies may be required, and a specification of the supplies which will be wanted.

and Magistrates by officers commanding detachments.

The commanding officer will likewise notify to the Collectors the probable period of the arrival of the troops at the rivers or *nálás* intersecting their march, where boats or temporary bridges may be necessary for crossing the troops and the baggage attached to them.

\* \* \* \* \*

3. *First*.—On receiving the notification mentioned in the foregoing section, the Collector shall immediately issue the necessary orders to the landholders, farmers, *tahsildárs* or other persons in charge of the lands through which the troops are to pass, for providing the supplies required, and for making any requisite preparations of boats or temporary bridges, or otherwise for enabling the troops to cross such rivers or *nálás* as may intersect their march, without any impediment or delay.

Procedure of Collector on notice.

The Collector shall at the same time depute a creditable Native officer to accompany the troops through his jurisdiction, for the purpose of aiding in procuring the necessary supplies and of facilitating the march of the troops.

It shall also be the duty of such Native officer to provide the troops with whatever bearers, *coolies*,<sup>2</sup> boatmen, carts and bullocks as may be indispensably necessary to enable the troops to prosecute their route.

Should he experience any difficulty in the performance of this duty, he is at liberty to apply for assistance to the nearest police-officer, who is directed to afford his aid in providing the number of persons, and of carts and bullocks required.<sup>3</sup>

Police to assist in providing bearers, boatmen, carts and bullocks.

*Second*.—The supplies furnished under the foregoing clause (including earthen pots, firewood and every article of supply) shall be paid for by the persons receiving the same at the current bazar prices of the place at which they may be provided ;

Rates for supplies furnished to troops.

and all officers commanding detachments of troops or single corps marching through any part of the Company's territories are enjoined to make immediate inquiry into any complaints which may be preferred to them by the persons furnishing such supplies or in their behalf, against any person or persons

Commanding officers to inquire into, and redress, complaints against per-

<sup>1</sup> The words "The commanding officer will at the same time communicate to the Magistrate of the zilas through which the troops are to pass the probable time of the arrival of the troops within their res, active jurisdictions" were repealed by the Amending Act, 1897 (V of 1897).

<sup>2</sup> So far as it relates to coolies the section does not apply to the Central Provinces, *see* the schedule to the Central Provinces Laws Act, 1875 (XX of 1875), *infra*, p. 68.

<sup>3</sup> As to fine for disobeying requisition under s. 3, *see* Ben. Reg. VI of 1825, *infra*, p. 15.

sons under their command.

Certificate to be granted by commanding officer when troops are provided with boats, etc.

under their command, and to afford such redress to the complainants as the nature of the case may appear to require

4 *First.*—Whenever a detachment of troops or a single corps shall be provided with boats, temporary bridges or other accommodations, by any landholder, farmer, tahsildár or other person, conformably to the orders of the Collector of the zila, for the purpose of crossing the troops and their baggage over rivers or nálas, the commanding officer of such detachment or corps will grant a certificate to the person furnishing the same, specifying the number of boats and persons employed, the burthen of each boat, and how long employed on the public service.

In instances in which temporary bridges may be constructed for the above purpose, the certificate to be granted by the commanding officer is to specify generally, the dimensions of the bridges and the materials of which they may be composed.

Certificate to be sent to Collector with account.

*Second.*—The certificate mentioned in the foregoing clause shall be immediately transmitted to the Collector of the zila by the person receiving it, accompanied by the detailed account of the expense incurred for the purposes therein specified

Account to be sent by Collector to commanding officer. Endorsement by commanding officer.

The Collector shall without delay communicate the particulars of the account to the officer commanding the detachment or corps on whose account the expense may have been incurred, who shall certify generally thereon whether the services charged for in it were performed, or shall state such exceptions as he may have to offer to any of the charges.

Account and vouchers to be sent by Collector with his report to Government.

*Third.*—When the account above mentioned shall be returned to the Collector, he shall certify whether the sums and rates charged in it are in his opinion reasonable and conformable to the usual rates of labour and hire in the zila; and shall transmit the account, with the vouchers and certificates relating to it, with any requisite observations thereupon, through the prescribed channel, to the <sup>1</sup>[Local Government].

After the account shall have undergone the examination and report prescribed for all military contingent charges, the <sup>1</sup>[Local Government] will pass such final order as may appear proper.

Collector may pay charge if reasonable.

In the meantime the Collector is empowered in such cases to pay the amount of the charge, or such proportion of it as he may consider reasonable to the landholder, farmer or other person entitled thereto; inserting the amount so disbursed by him at the foot of his treasury-account, in explanation of his treasury-balance, in the mode prescribed for similar cases.

Procedure for landholders, etc., su'alim-

5. *First.*—Whenever a proprietor, farmer, tenant or manager of land through which any detachment or corps of the Company's troops may march

<sup>1</sup> The words "Local Government" were substituted for the words "Governor General in Council" by the Amending Act, 1897 (V of 1897), General Act, Vol. IV.

or on which they may be encamped, shall consider himself entitled to compensation for any injury sustained from the march or encampment of the troops, he shall immediately furnish the commanding officer of such troops with as accurate a statement as can be prepared of the nature and extent of the injury sustained ;

when the commanding officer is required to certify generally thereon whether or not the damage represented to have been sustained has been actually committed, together with his opinion respecting the justice and extent of the claim.

*Second.*—If the proprietor, farmer, tenant or manager, after receiving such certificate, shall consider himself entitled to compensation, he will be at liberty to present the statement of his claim, with the commanding officer's certificate thereon, to the Collector of the zila (either in person or by his vakil) within ten days from the date of the certificate ; but no claim of this description shall be received by the Collector after the expiration of that period, unless the person preferring it shall assign good and satisfactory reason for the delay.

The Collector, on receiving a statement of damage and the commanding officer's certificate thereon within the prescribed period, or afterwards if sufficient reason be assigned for the delay, shall forthwith adopt such measures as may appear requisite to ascertain whether or not the claim be well founded ; and shall report his proceedings to the Board of Revenue, accompanied by his opinion on the merits of the claim, for the consideration and orders of Government.

It is however declared that no claim will be received, unless accompanied by the prescribed certificate of the commanding officer of the troops by whom the damage may be stated to have been committed ; excepting in instances in which the claimant can show good and sufficient cause for not having obtained such certificate.

In such cases, if the Collector shall be satisfied with the cause assigned by the claimant for not having obtained the prescribed certificate, he shall transmit the petition and statement of the claimant to the officer commanding the troops by whom the damage may be stated to have been committed, and shall wait his reply thereto previously to determining whether or not the claim be entitled to investigation.

6. Immediately on receiving the notification mentioned in section 2, the Magistrate shall transmit orders to the several police-daroghas, or other local officers of the police through whose jurisdiction the troops are to pass, to afford every assistance in their power to facilitate the march of the troops

ing injury,  
from march  
or encamp-  
ment.

Certificate by  
commanding  
officer.

Certificate  
with state-  
ment of claim  
to be present-  
ed to Collect-  
or within ten  
days.

Procedure by  
Magistrates  
on receiving  
notice men-  
tioned in  
section 2.

<sup>1</sup> In the Central Provinces, the Chief Commissioner, see the Central Provinces Laws Act, 5 (XX of 1875), *sch.*, *in/ra*, p. 63.

through their respective jurisdictions ; and to co-operate, as far as necessary, with the person deputed on the part of the Collector in procuring the requisite supplies, as well as in adjusting any disputes which may arise respecting the prices of the articles furnished, and in preventing any alarm to the inhabitants of the country

Police empowered, in cases of necessity, to assist travellers in prosecuting their route.

8. Whenever any military officer, not commanding nor proceeding with a corps or detachment of troops, or any other person (whether European or Native) not restricted by Government from passing through the country, may be proceeding within any part of the Company's provinces, either on the public service or on his private affairs, and shall be in need of assistance during the route to enable him to prosecute his journey, he shall be at liberty to apply to the nearest local officer of police to aid him in providing any requisite bearers, *coolies*,<sup>1</sup> boatmen, carts or bullocks, or any necessary supplies of provisions or other articles.

Assistance how afforded

On receiving an application of the above nature, the police-officer to whom it may be made shall furnish the aid required, or cause it to be furnished by the proper person or persons : provided that a sufficient number of persons who have been accustomed to act as bearers, *coolies*<sup>1</sup> or boatmen, or the requisite number of carts and bullocks not exclusively appropriated to the purposes of Agriculture and occasionally let for hire, can be procured within his jurisdiction.

Persons and carts and bullocks not to be employed in furnishing assistance.

But all police-officers are strictly forbidden, under pain of dismissal from office, \* \* \* \* \*<sup>2</sup> on applications of the above nature, to compel any persons not accustomed to act as bearers, *coolies*<sup>1</sup> or boatmen to serve on such occasions, or to furnish a traveller, or cause him to be furnished, with bullocks or carts kept for private use and not for hire, or exclusively appropriated to the purposes of agriculture.

Persons employed to be at liberty to return from first police-station.

Persons so employed, and the persons in charge of carts and bullocks so provided, shall be at liberty to return from the first police-station in the next zila through which the corps or detachment is to march, unless a voluntary engagement to the contrary may be entered into by such persons.

Conditions of assistance to travellers.

The police officers further enjoined to be careful that a proper compensation for the bearers, *coolies*,<sup>1</sup> boatmen, carts or bullocks employed, and a just price for the provisions or other articles provided, be secured to the persons entitled thereto.

<sup>1</sup> So far as it relates to coolies, the section does not apply to the Central Provinces, see the Central Provinces Laws Act, 1875 (XX of 1875), sch., *infra*, p. 63.

<sup>2</sup> The words and figures "under the rules pre-cited by Reg. V, 1804," which were excepted in the application of s. 8 to the Central Provinces, see Act XX of 1875, sch., *infra*, p. 63, have been omitted. They have since been repealed by the Amending Act, 1891 (XII of 1891).



For this purpose, the police-officers are authorized to adjust the rate of hire to be paid for the bearers, *coolies*,<sup>1</sup> boatmen, carts or bullocks required, and the price of any articles provided ; as well as to demand that the whole or a part, according to the circumstances of the case, be paid in advance.

Should any traveller refuse to comply with the adjustment or demand so made by a police-officer, he will not be entitled to any assistance from the officers of Government under this Regulation.

## BENGAL REGULATION XI OF 1812.<sup>2</sup>

[THE BENGAL FOREIGN IMMIGRANTS REGULATION, 1812.]

[18th July, 1812.]

A Regulation to empower the<sup>3</sup> [Local Government] to order the removal of emigrants from foreign countries and their descendants, from any place in the vicinity of the frontier of the State from which they may have emigrated; and, in certain cases, to place and detain any such persons in safe custody ; and likewise to provide for the trial of emigrants and their descendants who may excite disturbances in the countries from which they may have emigrated, and of persons aiding them in the prosecution of such attempts.

1. WHEREAS considerable bodies of persons being Natives of Arakan and Preamble. ordinarily denominated Muggs, have from time to time emigrated from that country and established themselves in that part of the district of Chittagong which lies contiguous to the Arakan frontier ;

and whereas numbers of those persons, or of their descendants, abusing the protection which had been afforded to them in the British territories have excited disturbances and even levied war in the country of Arakan against the Government of Ava, of which State Arakan is now a dependency, and have conducted themselves in a manner manifestly tending to disturb the relations of amity which subsist between the British Government and the Government of Ava ;

<sup>1</sup> So far as it relates to coolies the section does not apply to the Central Provinces, see the Central Provinces Laws Act, 1875 (XX of 1875), sch., *infra*, p. 63

<sup>2</sup> Ben. Reg. XI of 1812 was declared in force in the Central Provinces by Act XX of 1875, see s. 3 and sch., *infra*, pp. 60 and 63.

Short title, the Bengal Foreign Immigrants Regulation, 1812, see the Amending Act, 1897 (V of 1897), (General Acts, Vol. IV.

<sup>3</sup> The words "Local Government" were substituted for the words "Governor General in Council" by Act V of 1897.

and whereas it is, in consequence, necessary that the <sup>1</sup>[Local Government] should possess legal powers to remove the said bodies of emigrants and their descendants from the frontier of the territory of Arakan, or any other bodies of aliens, or their descendants, from the vicinity of the country from which they may have emigrated, and likewise to detain in confinement any of those persons, or any other individuals being natives of foreign countries, or their descendants, for offences of the above nature actually committed by them in the territories of the State from which they may have emigrated ;

and whereas it is necessary to make provision for the trial of persons committing, or aiding in the commission of, the said offences,

the following rules have been passed, to be in force from the period of their promulgation throughout the territories immediately dependent on the presidency of Fort William.

Power to  
order re-  
moval of emi-  
grants to  
parts of coun-  
try deemed  
convenient.

2. Whenever the <sup>1</sup>[Local Government] upon due investigation, shall be satisfied that the emigrants from Arakan, or emigrants from any other State, who may have sought an asylum in the British territories, or the descendants of any of the said emigrants, shall have abused the protection afforded to them, by attempts to excite disturbances in the State from which they or their ancestors may have emigrated, it shall be competent to the <sup>1</sup>[Local Government] to order the removal of those persons to such other part or parts of the country as may be judged most convenient for their future residence.

In like manner, it shall be competent to the <sup>1</sup>[Local Government] to order such removal, whenever <sup>2</sup>[it] may have grounds to be satisfied that the residence of any body of aliens, or their descendants, in the vicinity of the frontier of the country from which they or their ancestors may have emigrated, is likely to cause any serious misunderstanding between that State and the British Government.

Emigrants  
allowed to  
dispose of  
property.

3. Whenever any body of emigrants, or any individuals belonging to such body, shall be ordered to be removed from the part of the country in which they may have been established, they shall be allowed to dispose of any property which they may have acquired in such manner as they may judge proper :

Provided, however, that if they shall nevertheless retain the right to any real property at the period of their actual removal, it shall be competent to the <sup>1</sup>[Local Government] to order such property to be sold by public auction under the superintendence of the Collector of the district.

In that case, the net proceeds of the sale shall be duly paid to the person or persons to whom the said property belonged.

<sup>1</sup> The words " Local Government " were substituted for the words " Governor General in Council " by the Amending Act, 1897 (V of 1897), General Acts, Vol. IV.

<sup>2</sup> The word " it " was substituted for the word " he " by the Burma Laws Act, 1898 (XII of 1898), s. 16, Burma Code.

4. In cases in which the <sup>1</sup> [ Local Government ] may, on due inquiry and mature deliberation, be satisfied that either the preservation of the tranquillity of the British territories, or of the dominions of the allies of the British Government, or the maintenance of the relations of amity subsisting between the British Government and other States, requires that any of the leaders or other persons of the above description, who may have committed the offences mentioned in section 2 of this Regulation, should be placed and detained under restraint, it shall be competent to the <sup>1</sup> [ Local Government ] to order any such persons having committed any of the said offences, but not otherwise, to be apprehended and committed to confinement at such place, and under the custody of such public officer, and detained in confinement for such time, as may be deemed by the <sup>1</sup> [ Local Government ] necessary for the public good.

Power to order leaders or other emigrants to be apprehended and kept under restraint.

5. *First*.—Any persons of the above description, or their descendants who while living under the protection of the British Government, shall enter the country from which they or their ancestors may have emigrated, or any other foreign country, and shall excite, or attempt to excite, disturbances in the said countries, shall be liable to be brought to trial for that offence, \* \* \* <sup>2</sup> and, if convicted, shall be sentenced to suffer imprisonment for the period of seven years.

Punishment for emigrants or their descendants exciting disturbances in countries from which they emigrated.

*Second*.—Any persons, whether Native British subjects or aliens, who shall furnish emigrants from foreign countries with any assistance, either of men, money or arms, in prosecution of their attempts to excite disturbances in the country from which they may have emigrated, or in any other country, or shall otherwise aid such aliens in the prosecution of their criminal design, shall be liable to be brought to trial for that offence \* \* \* <sup>2</sup> and, if convicted, shall be sentenced to suffer imprisonment for the term of seven years :

Punishment for persons aiding or assisting in attempts to excite such disturbances.

Provided, however, that if the Judge \* \* \* <sup>2</sup> by whom the case may be tried shall be of opinion that the punishment established by this and the preceding clause should in any instance be mitigated, he shall submit the proceedings held on the trial <sup>3</sup> [to the Local Government, and the Local Government shall pass such orders thereon as it may think fit.]

Proviso.

Provided, moreover, that no sentence or order which may be passed on the trial of any persons under the provisions of the present Regulation shall be competent, or shall be construed, to preclude the <sup>1</sup> [Local Government] from

<sup>1</sup> The words "Local Government" were substituted for "Governor General in Council" by the Amending Act, 1897 (V of 1897), General Acts, Vol. IV.

<sup>2</sup> The words "before the Court of Circuit" after the word "offence" and the words "of Circuit" after the word "Judge" were repealed by the Repealing Act, 1874 (XVI of 1874).

<sup>3</sup> These words were substituted for the words "to the Nizamat Adalat who will recommend to the Governor General in Council such abbreviation of the prescribed punishment as they may Judge proper" by the Amending Act, 1897 (V of 1897), General Acts, Vol. IV.

the exercise of the power vested in the Government by section 4 of <sup>1</sup> [ this Regulation.]

## BENGAL REGULATION III OF 1818.<sup>2</sup>

[ THE BENGAL STATE PRISONERS REGULATION, 1818.]

[ 7th April, 1818.]

### A Regulation for the confinement of State Prisoners.

Preamble.

1. WHEREAS reasons of State, embracing the due maintenance of the alliances formed by the British Government with foreign Powers, the preservation of tranquillity in the territories of Native Princes entitled to its protection, and the security of the British dominions from foreign hostility and from internal commotion, occasionally render it necessary to place under personal restraint individuals against whom there may not be sufficient ground to institute any judicial proceeding, or when such proceedings may not be adapted to the nature of the case, or may for other reasons be unadvisable or improper ;

and whereas it is fit that, in every case of the nature herein referred to, the determination to be taken should proceed immediately from the authority of the Governor General in Council ;

and whereas the ends of justice require that, when it may be determined that any person shall be placed under personal restraint, otherwise than in pursuance of some judicial proceeding, the grounds of such determination should from time to time come under revision, and the person affected thereby should at all times be allowed freely to bring to the notice of the Governor General in Council all circumstances relating either to the supposed grounds of such determination, or to the manner in which it may be executed ;

and whereas the ends of justice also require that due attention be paid to the health of every State prisoner confined under this Regulation, and that suitable provision be made for his support according to his rank in life, and to his own wants and those of his family ;

and whereas the reasons above declared sometimes render it necessary that the estates and lands of zamíndárs, taluqdárs and others situated within the territories dependent on the Presidency of Fort William should be attached

<sup>1</sup> These words were substituted for the word, " the said Regulation " by the Amending Act, 1903 (1 of 1903), s. 3.

<sup>2</sup> Ben. Reg. III of 1818 was declared in Force in the Central Provinces by the Central Provinces Laws Acts, 1875 (XX of 1875), s. 3, and sch., *infra*, pp. 60 and 64.

Short title, the Bengal State Prisoners Regulation, 1818, *see* the Amending Act, 1897 (V of 1897).

and placed under the temporary management of the revenue authorities, without having recourse to any judicial proceeding ;

and whereas it is desirable to make such legal provisions as may secure from injury the just rights and interests of individuals whose estates may be so attached under the direct authority of Government ;

the Vice-President in Council has enacted the following rules, which are to take effect throughout the Provinces immediately subject to the Presidency of Fort William, from the date on which they may be promulgated.

2. *First*.—When the reasons stated in the preamble of this Regulation may seem to the Governor General in Council to require that an individual should be placed under personal restraint, without any immediate view to ulterior proceedings of a judicial nature, a warrant of commitment under the authority of the Governor General in Council, and under the hand of the Chief Secretary, or of one of the Secretaries to Government, shall be issued to the officer in whose custody such person is to be placed.

Proceeding for placing persons under restraint as State prisoners.

*Second*.—The warrant <sup>1</sup> of commitment shall be in the following form :—

Form of warrant.

To the [*here insert the officer's designation*].

"Whereas the Governor General in Council, for good and sufficient reasons, has seen fit to determine that [*here insert the State prisoner's name*] shall be placed under personal restraint at [*here insert the name of the place*], you are hereby required and commanded, in pursuance of that determination, to receive the person above-named into your custody, and to deal with him in conformity to the orders of the Governor General in Council and the provisions of Regulation III of 1818.

"Fort William, the

"By order of the Governor General in Council,

"A. B., Chief Secy. to Govt."

*Third*.—The warrant of commitment shall be sufficient authority for the detention of any State prisoner in any fortress, jail or other place within the territories subject to the Presidency of Fort William.

Authority of warrant.

3. Every officer in whose custody any State prisoner may be placed shall on the first of January and first of July of each year, submit a report to the Governor General in Council, through the Secretary to Government in the Political Department, on the conduct, the health and the comfort of such State prisoner, in order that the Governor General in Council may determine whether the orders for his detention shall continue in force or shall be modified.

Officer having custody of State prisoners to submit periodical reports.

<sup>1</sup> As to direction of warrant, see the State Prisoners Act, 1850 (XXXIV of 1850), General Acts, Vol. I. As to places in which a State prisoner may be confined, see *ib.*, also the State Prisoners Act, 1858 (III of 1858), ss. 2 and 5, in same volume.

State prisoners in custody of Zila or City Magistrate by whom to be visited.

4. *First*.—When any State prisoner is in the custody of a Zila \* \* \*<sup>1</sup> Magistrate, the Judges \* \* \*<sup>2</sup> are to visit such State prisoner on the occasion of the periodical sessions, and they are to issue any orders concerning the treatment of the State prisoner which may appear to them advisable, provided they be not inconsistent with the orders of the Governor General in Council issued on that head.

State prisoners in custody of other officers, by whom to be visited.

*Second*.—When any State prisoners is placed in the custody of any public officer not being a Zila \* \* \*<sup>1</sup> Magistrate, the Governor General in Council will instruct either the Zila \* \* \*<sup>1</sup> Magistrate, or the Judge \* \* \*<sup>2</sup> or any other public officer, not being the person in whose custody the prisoner may be placed, to visit such prisoner at stated periods, and to submit a report to Government regarding the health and treatment of such prisoner.

Representations by State prisoners to be submitted to Government.

5. The officer in whose custody any State prisoner may be placed is to forward, with such observations as may appear necessary, every representation which such State prisoner may from time to time be desirous of submitting to the Governor General in Council.

Report to Government regarding confinement, etc., of prisoners.

6. Every officer in whose custody any State prisoner may be placed shall, as soon after taking such prisoner into his custody as may be practicable, report to the Governor General in Council whether the degree of confinement to which he may be subjected appears liable to injure his health, and whether the allowance fixed for his support be adequate to the supply of his own wants and those of his family, according to their rank in life.

Appropriation of allowance for support.

7. Every officer in whose custody any State prisoner may be placed shall take care that the allowance fixed for the support of such State prisoner is duly appropriated to that object.

8. (*Application of ss. 3-7 to persons already in confinement.*) *Rep. by Act XVI of 1874.*)

Attachment of estates by order of Government without decision of Court.

9. Whenever the Governor General in Council, for the reasons declared in the preamble to this Regulation, shall judge it necessary to attach the estates or lands of any zamíndár, jagírdár, táluqdár or other person, without any previous decision of a Court of Justice, or other judicial proceeding, the grounds on which the Resolution of Government may have been adopted, and such other information connected with the case as may appear essential, shall be communicated, under the hand of one of the Secretaries to Government, to the Judge and Magistrate of the district in which the lands or estates may be situated,<sup>3</sup> [and] to \* \* \*<sup>4</sup> the Sadr Díwání Adálat and Nizámat Adálat.

<sup>1</sup> The words "or city" were repealed by the Amending Act, 1903 (I of 1903), s. 4.

<sup>2</sup> The words "of circuit" were repealed by the Repealing Act, 1874 (XVI of 1874.)

<sup>3</sup> The word "and" was inserted by the Amending Act, 1891 (XII of 1891), General Acts, Vol. IV.

<sup>4</sup> The words "to the Provincial Court of Appeal and Circuit, and" were repealed by the Repealing Act, 1874 (XVI of 1874).

10. *First.*—The lands or estates which may be so temporarily attached shall be held under the management of the officers of Government in the Revenue Department, and the collections shall be made and adjudged on the same principles as those of other estates held under *khás* management.

*Second.*—Such lands or estates shall not be liable to be sold in execution of decrees of the Civil Courts, or for the realization of fines or otherwise, during the period in which they may be so held under attachment.

*Third.*—In the cases mentioned in the preceding clause the Government will make such arrangement as may be fair and equitable for the satisfaction of the decrees of the Civil Courts.

11. Whenever the Governor General in Council shall be of opinion that the circumstances which rendered the attachment of such estate necessary have ceased to operate, and that the management of the estate can be committed to the hands of the proprietor without public hazard or inconvenience the Revenue-authorities will be directed to release the estate from attachment, to adjust the accounts of the collections during the period in which they may have been superintended by the officers of Government, and to pay over to the proprietor the profits from the estate which may have accumulated during the attachment.

## BENGAL REGULATION VI OF 1825.<sup>1</sup>

[THE BENGAL TROOPS TRANSPORT REGULATION, 1825.]

[*4th April, 1825.*]

A Regulation for rendering more effectual the rules in force relative to supplies and preparations for troops proceeding through the British territories.

1. WHEREAS it is enacted in the first clause of section 3,<sup>2</sup> Regulation XI, Preamble, 1806, that on receiving the notification mentioned in the preceding section relative to a body of troops about to proceed, by land or by water, through any part of the Company's territories, the Collector of the district shall immediately issue the necessary orders to the landholders, farmers, *tahsildárs* or other persons in charge of the lands through which the troops are to pass, for providing the supplies required, and for making any requisite preparations

<sup>1</sup> Ben. Reg. VI of 1825 was declared in force in the Central Provinces by Act XX of 1875, s. 3 and sch., *infra*, pp. 60 and 61.

Short title, the Bengal Troops Transport Regulation, 1825, *see* the Amending Act, 1897 (V of 1897), General Acts, Vol. IV.

<sup>2</sup> *Supra*, p. 5.

of boats or temporary bridges, or otherwise for enabling the troops to cross such rivers or nálas as may intersect their march without impediment or delay; it being at the same time further directed, in the second clause of the section referred to, that the supplies so furnished shall be paid for by the persons receiving the same at the current bazar prices of the place at which they may be provided, and that the expense incurred for crossing the troops and their baggage over rivers or nálas, after being duly ascertained, will be paid by Government;

and whereas experience has shown the necessity of enabling the Collectors or other public officers acting in that capacity to enforce their orders in the cases above mentioned, by imposing a fine upon any landholder, tahsildar or other person in the possession or management of land who, after receiving the requisition issued in pursuance of the section above cited, may be proved to have wilfully disobeyed or neglected the same;

the Governor General in Council has therefore enacted the following rules to be in force as soon as promulgated in all the Provinces immediately subject to the Presidency of Fort William.

liability for  
landholders  
not providing  
supplies for  
troops, etc.

2. Any landholder, farmer, tahsildar or other person in the possession or management of land, who may have been duly required by a Collector of the land-revenue (or any public officer acting in that capacity), in pursuance of section 3, Regulation XI, 1806,<sup>1</sup> to provide supplies for a body of troops about to proceed by land or water through any part of the British territories or to make preparations of boats, temporary bridges or otherwise, for enabling the troops to cross rivers or nálas intersecting their march;

and after the receipt of such requisition shall wilfully disobey or neglect the same, or shall without sufficient cause fail to exert himself for the due execution of the duty so assigned to him,

shall, on proof of such failure, neglect or disobedience, to the satisfaction of the Collector (or other officer acting in that capacity) by whom the order may have been issued, or of his successor in the same office, be liable to a fine proportionate to the defaulter's condition in life and the circumstances of the case, in such amount as the Collector or other officer, with due regard to these considerations, may judge it proper to impose, so that the fine shall not in any case exceed the sum of one thousand \* 2 rupees.

Collector to  
make sum-  
mary inquiry.

3. The Collector or other officer acting in that capacity, who may exercise the powers vested in him by this Regulation, shall previously make a summary inquiry, in the presence of the party charged with disobeying or neg-

<sup>1</sup> *Supra*, p. 5.

<sup>2</sup> The word "sikkha" was repealed by the Amending Act, 1903 (I of 1903), s. 4, Bengal Code.



lecting the order issued to him, or of his representative, if, on being duly summoned, he shall attend in person or by vakil for that purpose ;

if he shall fail to attend, either in person or by vakil, the summary inquiry shall be conducted *ex parte*, and the Collector shall record upon his proceedings the whole of the evidence obtained in proof of the neglect or disobedience for which a fine may be imposed.

4. The Collector or other officer who may adjudge a fine under this regulation shall be competent to levy the amount by the same process as is authorized for the recovery of arrears of the public revenue : Fine now levied.

Provided that if an appeal be preferred from his decision, within six weeks from the date of it, to the <sup>1</sup> Board of Revenue \* \* \* \* \* <sup>2</sup> and sufficient security be tendered for performing the judgment of the Board upon the appeal, the Collector shall stay the execution of his order for levying the fine imposed by him, until he shall receive the final order of the Board. Proviso as to appeal.

5. Appeals from the orders of Collectors or other public officers, adjudging fines under this Regulation, may be preferred \* \* \* \* \* <sup>3</sup> either immediately to the \* \* \* \* \* <sup>2</sup> Board or through the officer by whom the fine may have been adjudged ; and, on admission of the appeal, the whole of the proceedings in the case shall be transmitted to the Board. Petition of appeal against fine.

But no such appeal shall be receivable after the expiration of six weeks from the date of the judgment, without proof of sufficient reason for the delay, to the satisfaction of the Board \* \* \* \* \* <sup>4</sup> Limitation of appeal.

## BENGAL REGULATION XI OF 1825.<sup>4</sup>

[THE BENGAL ALLUVION AND DILUVION REGULATION, 1825.]

[26th May, 1825.]

A Regulation for declaring the rules to be observed in determining claims to lands gained by alluvion, or by dereliction of a river or the sea.

1. In consequence of the frequent changes which take place in the channel of the principal rivers that intersect the Provinces immediately subject to the Preamble.

<sup>1</sup> In the Central Provinces, the Chief Commissioner, *see* the Central Provinces Laws Act, 1875 (XX of 1875), *sch.*, *infra*, p. 64.

<sup>2</sup> The words "in whose jurisdiction the district may be situate" in s. 4, and the words "proper" and "by whom the case may be cognizable" in s. 5 were repealed by the Amending Act, 1903 (I of 1903), s. 4, Bengal Code.

<sup>3</sup> The words "on the stamped paper prescribed for other appeals to the Revenue Boards," were repealed by the Repealing Act, 1876 (XII of 1876).

<sup>4</sup> Ben. Reg. XI of 1825 was declared in force in the Central Provinces by the Central Provinces Laws Act, 1875 (XX of 1875), s. 3 and *sch.*, *infra*, pp. 60 and 64.

Short title, the Bengal Alluvion and Diluvion Regulation, 1825, *see* the Amending Act 1897 (V of 1897), General Acts. Vol. IV.

Presidency of Fort William, and the shifting of the sands which lie in the beds of those rivers, chars or small islands are often thrown up by alluvion in the midst of the stream, or near one of the banks, and large portions of land are carried away by an encroachment of the river on one side, whilst accessions of land are at the same time, or in subsequent years, gained by dereliction of the water on the opposite side; similar instances of alluvion, encroachment and dereliction also sometimes occur on the sea-coast which borders the southern and south-eastern limits of Bengal.

The lands gained from the rivers or sea by the means abovementioned are a frequent source of contention and affray, and, although the law and custom of the country have established rules applicable to such cases, these rules not being generally known, the Courts of Justice have sometimes found it difficult to determine the rights of litigant parties claiming chars or other lands gained in the manner above described.

The Court of <sup>1</sup> Sadr Dīwānī Adālāt, with a view to ascertain the legal provisions of the Muhammadan and Hindū laws on this subject, called for reports from their law-officers of each persuasion; and on consideration of the reports furnished by the law-officers in consequence, as well as of the decisions which have been passed by the Court of Sadr Dīwānī Adālāt in cases brought before them in appeal which involved the rights of claimants to lands gained by alluvion, or by dereliction of rivers or the sea, the Governor General in Council has deemed it proper to enact the following rules for the general information of individuals as well as for the guidance of the Courts of Judicature; to be in force, as soon as promulgated, throughout the whole of the Provinces subject to the Presidency of Fort William.

Claims and disputes as to alluvial lands to be decided by usage when clearly recognized and established.

2. Whenever any clear and definite usage of shikast paiwast respecting the disjunction and junction of land by the encroachment or recess of a river may have been immemorially established, for determining the rights of the proprietors of two or more contiguous estates divided by a river (such as that the main channel of the river dividing the estates shall be the constant boundary between them, whatever changes may take place in the course of the river, by encroachment on one side and accession on the other), the usage so established shall govern the decision of all claims and disputes relative to alluvial land between the parties whose estates may be liable to such usage.

Where no usage established claims how decided.

3. Where there may be no local usage of the nature referred to in the preceding section, the general rules declared in the following section shall be applied to the determination of all claims and disputes relative to lands gained by alluvion or by dereliction either of a river or the sea.

<sup>1</sup> In the Central Provinces the functions of this Court are performed by the Judicial Commissioner, *see* the Central Provinces Laws Act, 1875 (XX of 1875), s. 3, and sch., *infra*, pp. 60 and 64.

4. *First.*—When land may be gained by gradual accession, whether from the recess of a river or of the sea, it shall be considered an increment to the tenure of the person to whose land or estate it is thus annexed, whether such land or estate be held immediately from Government by a Zamíndár or other superior landholder, or as a subordinate tenure, by any description of under-tenant whatever :

Land gained by gradual accession from recess of river or sea.

Provided that the increment of land thus obtained shall not entitle the person in possession of the estate or tenure to which the land may be annexed to a right of property or permanent interest therein beyond that possessed by him in the estate or tenure to which the land may be annexed, and shall not in any case be understood to exempt the holder of it from the payment to Government of any assessment for the public revenue to which it may be liable under the provisions of Regulation II, 1819,<sup>1</sup> or of any other Regulation in force.

Extent of interest in increment of person in possession.

Nor if annexed to a subordinate tenure held under a superior landholder, shall the under-tenant, whether a khudkást raiyat, holding a maurúsi istimrári tenure at a fixed rate of rent per bighá, or any other description of under-tenant liable by his engagements, or by established usage, to an increase of rent for the land annexed to his tenure by alluvion, be considered exempt from the payment of any increase of rent to which he may be justly liable.

*Second.*—The above rule shall not be considered applicable to cases in which a river, by a sudden change of its course, may break through and intersect an estate, without any gradual encroachment, or may by the violence of stream separate a considerable piece of land from one estate, and join it to another estate, without destroying the identity, and preventing the recognition, of the land so removed.

When river by sudden change of course intersects estate.

In such cases the land, on being clearly recognized, shall remain the property of its original owner.

*Third.*—When a char or island may be thrown up in a large navigable river (the bed of which is not the property of an individual), or in the sea and the channel of the river or sea between such island and the shore may not be fordable, it shall, according to established usage, be at the disposal of Government.

Chars thrown up in navigable river or sea.

But if the channel between such island and the shore be fordable at any season of the year, it shall be considered an accession to the land, tenure or tenures of the person or persons whose estate or estates may be most contiguous to it, subject to the several provisions specified in the first clause of this section with respect to increment of land by gradual accession.

Property therein when channel fordable.

<sup>1</sup> Ben. Reg. II of 1819 is not in force in the Central Provinces, but see the Central Provinces Land Revenue Act, 1917 (C. P. Act II of 1917), *infra*, p. 400.

Chars, etc.,  
thrown up in  
small shallow  
rivers.

*Fourth.*—In small and shallow rivers, the beds of which, with the jalkar right of fishery, may have been heretofore recognized as the property of individuals, any sand-bank or char that may be thrown up shall, as hitherto, belong to the proprietor of the bed of the river, subject to the provisions stated in the first clause of the present section.

Disputes rela-  
tive to lands  
gained by  
alluvion or by  
dereliction  
not provided  
for by Regu-  
lation.

*Fifth.*—In all other cases, namely, in all cases of claims and disputes respecting land gained by alluvion or by dereliction of a river or the sea, which are not specifically provided for by the rules contained in this Regulation, the Courts of Justice, in deciding upon such claims and disputes, shall be guided by the best evidence they may be able to obtain of established local usage, if there be any applicable to the case, or, if not, by general principles of equity and justice.

Encroach-  
ments on beds  
of navigable  
rivers and  
other ob-  
structions.

5. Nothing in this Regulation shall be construed to justify any encroachments by individuals on the beds or channels of navigable rivers, or to prevent Zila \* \* 1 Magistrates or any other officers of Government, who may be duly empowered for that purpose, from removing obstacles which appear to interfere with the safe and customary navigation of such rivers, or which shall in any respects obstruct the passage of boats by tracking on the banks of such rivers, or otherwise.

## BENGAL REGULATION V OF 1827.<sup>2</sup>

[THE BENGAL ATTACHED ESTATES MANAGEMENT REGULATION, 1827.]

[27th December, 1827.]

A Regulation for modifying the rules at present in force for the management of estates under attachment by orders of the Courts of Justice in certain cases.

Preamble.

1. WHEREAS it is expedient, in all cases of the attachment of landed property under orders of the Courts of Justice, that the management of the estate attached should be placed under the superintendence of the Collectors of land-revenue the following rules have been enacted by the Governor General in Council, to be in force from the date of their promulgation throughout the territories immediately subject to the Presidency of Fort William.

<sup>1</sup> The words "and ity" were repealed by the Amending Act, 1863 (I of 1863), s. 4, Bengal Code.

<sup>2</sup> Ben. Reg. V of 1827 (with the exception of certain words and figures in s. 2) was declared in force in the Central Provinces by the Central Provinces Laws Act, 1875 (XX of 1875), s. 3 and sch., *infra*, pp. 60 and 64.

Short title, the Bengal Attached Estates Management Regulation, 1827, *see* the Amending Act, 1867 (V of 1867), General Acts, Vol. IV.

2. The rules contained in sections 5 and 6,<sup>1</sup> Regulation V, 1799, \* \* \* \* <sup>2</sup> Modification of Regulation V of 1799 as to management of attached estates. Issue of precept for holding estates under attachment and for appointing managers.  
 regarding the administration and management of estates under orders of the Zila \* \* <sup>3</sup> Courts, are hereby declared subject to the following modifications.

3. Whenever the Zila \* \* <sup>3</sup> Courts may deem it just and proper, under the provisions of the <sup>4</sup> [Regulation] abovementioned, to provide for the administration or management of landed property, the Court shall issue a precept to the Collector of land-revenue of the district wherein the estate may be situated, directing him to hold the estate in attachment, and to appoint a person for the due care and management of the estate, under good and adequate security for the faithful discharge of the trust, in a sum proportionate to the extent thereof :

Provided, however, that if any person holding an interest in the estate shall be dissatisfied with the selection made by the Collector of the individual to perform the duty in question, or with the conduct of the manager at any time after his appointment, it shall be competent to such person to represent his objection to the <sup>5</sup> Board of Revenue, and the Board will either confirm the manager chosen, or order the Collector to appoint another person, as on consideration of the circumstances of the case may appear reasonable and proper.

4. The precept of the Zila \* \* <sup>6</sup> Court abovementioned shall state specifically the property to be included in the attachment, and the attachment shall not be withdrawn without a further precept from the Court to that effect. <sup>Precept to state property included in attachment.</sup>

<sup>1</sup> *Supra*, p. 1.

<sup>2</sup> The words and figures "and clauses five and six, s. 16, Regulation III, 1803," were excepted by Act XX of 1875, sch., on the application of the Regulation by that Act to the Central Provinces, and the words and figures "and ss. 26 and 27, Regulation V, 1812, and clause Third, s. 5, Regulation VI, 1813," were repealed by the Repealing Act, 1874 (XVI of 1874).

<sup>3</sup> The words "and city" in ss. 2 and 3 were repealed by Act XVI of 1874.

<sup>4</sup> The word "Regulation" was substituted for the words "several Regulations" by s. 3 of the Amending Act, 1903 (I of 1903).

<sup>5</sup> In the Central Provinces, the Chief Commissioner, *see* the Central Provinces Laws Act, 1875 (XX of 1875), sch., *infra*, p. 64.

<sup>6</sup> The words "or city" were repealed by the Repealing Act, 1874 (XVI of 1874).



# PART II.

## THE LOCAL ACTS OF THE GOVERNOR GENERAL IN COUNCIL IN FORCE IN THE CENTRAL PROVINCES.

ACT No. XIII of 1857.<sup>1</sup>

[THE OPIUM ACT, 1857.]

[6th June, 1857.]

An Act to consolidate and amend the law relating to the  
cultivation of the poppy and the manufacture of opium  
in the Presidency of Fort William in Bengal.

1 \* \* \* \* \*

21. Any person who shall cultivate the poppy without license from a Sub-deputy Agent or other officer duly authorised in that behalf, and any person who shall in any way cause, encourage or promote such illegal cultivation, shall be liable to a fine not exceeding five hundred rupees, unless the quantity of land so illegally cultivated shall exceed twenty bighás, in which case the fine may be at the rate of twenty-five rupees per bighá; and the poppy-plants shall be destroyed, or, if any opium have been extracted from them, it shall be seized and confiscated.

Penalty for  
unlicensed  
cultivation.

If the opium shall have been extracted and shall not be seized, the offender shall be liable to a further fine not exceeding the rate of thirty-two rupees per bighá of land illegally cultivated.

22. All proprietors, farmers, tahsildárs, gumáshtas and other managers of land shall give immediate information to the police or abkárí-dároghas, or opium-gumáshtas, or to the Magistrates, Collectors or officers in charge of the abkárí mahál, or to the Agents, their Deputies or Sub-deputies, of all poppy which may be illegally cultivated within the estates or farms held or managed by them; and every proprietor, farmer, tahsildár, gumáshta or other

Duty of land  
holders and  
others to give  
information  
of illegal  
cultivation.

<sup>1</sup> Ss. 21 to 23 and 25 to 29 of Act XIII of 1857 were declared in force in the Central Provinces by the Central Provinces Laws Act, 1875 (XX of 1875), s. 3 and sch., *infra*, pp. 60 and 65. Short title, the Opium Act, 1857, see the Amending Act, 1903 (I of 1903), s. 4.

manager of land who shall knowingly neglect to give such information shall be liable to the penalties for illegal cultivation prescribed in the last preceding section.

Duty of police and other officers to give information of illegal cultivation.

23. All police and abkárí-dároghas, and opium-gumáshtas, and all Native officers of Government of whatever description, and all chaukídárs, paiks and other village police-officers, shall give immediate information to the authority to which they are subordinate when it may come to their knowledge that any land has been illegally cultivated with poppy; and such authority shall transmit the information to the Sub-deputy Agent, or other officer superintending the cultivation of the poppy, if in a district where the poppy is cultivated on account of Government, or to the Collector or officer in charge of the abkárí mahál, if in a district where the poppy is not so cultivated.

Every police or abkárí-dárogha, opium-gumáshta, Native officer, chaukídár or other police-officer as aforesaid, who shall neglect to give such information or shall in any respect connive at the illicit cultivation of the poppy, shall be liable to a fine not exceeding one thousand rupees if the offender be an officer of the Opium Department, or in any other case to a fine not exceeding five hundred rupees.

\* \* \* \* \*

Landholders, etc., may attach in cases of illegal cultivation.

25. Proprietors, farmers, tahsildárs, gumáshtas and other managers of land shall be at liberty to attach any poppy grown in opposition to the provisions of this Act in any estate or farm held or managed by them and shall immediately report such attachment to the nearest police or abkárí-dárogha or opium-gumáshta, who shall thereupon proceed in conformity with the rules contained in the last preceding section.

26. Except as otherwise herein provided, all fines, penalties and confiscations prescribed by this Act shall be adjudged by the Magistrate on the information of the Deputy Agent or Sub-deputy Agent in districts in which the poppy is cultivated on account of Government, and in other districts on the information of the Collector or officer in charge of the abkárí mahál:

Limitation to prosecutions.

Provided that no information of an offence against this Act shall be admitted unless it be preferred within the period of one year after the commission of the offence to which the information refers.

Imprisonment in default of payment of fine.

27. When any person is sentenced to pay any fine or penalty under this Act, such person, in default of payment of the same, may be imprisoned by order of the Magistrate for any time not exceeding six months, or until the fine is sooner paid.

Punishment for repetition of offences.

28. Whenever any person shall be convicted of an offence against this Act after having been previously convicted of a like offence, he shall be liable, in addition to the penalty attached to such offence, to imprisonment for a period



not exceeding six months; and a like punishment of imprisonment not exceeding six months shall be incurred, in addition to the punishment which may be inflicted for a first offence, upon every subsequent conviction after the second.

29. Every person who shall be imprisoned under the last preceding section, or on account of the non-payment of any fine or penalty prescribed by this Act, unless such person be an officer of Government or a village-police-officer convicted of an offence under section 17, 20<sup>1</sup> or 23, shall be imprisoned in the civil jail.

Place of  
imprison-  
ment.

## THE PUBLIC GAMBLING ACT, 1867.

(III of 1867.)

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<sup>1</sup> Sections 17 and 20 have not been applied to the Central Provinces.

ACT No. III of 1867.<sup>1</sup>

[THE PUBLIC GAMBLING ACT, 1867.]

[The 25th January, 1867.]

An Act to provide for the punishment of public gambling and the keeping of common gaming-houses in the <sup>2</sup> North-Western Provinces of the Presidency of Fort William, and in the Punjab, <sup>3</sup> Oudh, [and the Central Provinces].<sup>3</sup>

Preamble.

WHEREAS it is expedient to make provision for the punishment of public gambling and the keeping of common gaming-houses in the territories respectively subject to the Governments of the <sup>4</sup> Lieutenant-Governor of the North-Western Provinces of the Presidency of Fort William, [and] <sup>5</sup> of the Lieutenant-Governor of the Punjab, and to the administrations of the <sup>6</sup> Chief Commissioner of Oudh, <sup>7</sup> [and of the Chief Commissioner of the Central Provinces] ; It is hereby enacted as follows :—

## 1. In this Act—

Interpretation clause.  
“Lieutenant-Governor.”

<sup>8</sup> [“Lieutenant-Governor” means the Lieutenant-Governor of the United Provinces of Agra and Oudh or of the Punjab, as the case may be] :

“Chief Commissioner.”

<sup>8</sup> [“Chief Commissioner” means the Chief Commissioner of the Central Provinces or of the North-West Frontier Province, as the case may be] :

“Common gaming-house.”

“Common Gaming-house” means any house, walled enclosure, room or place in which cards, dice, tables or other instruments of gaming are kept or used for the profit or gain of the person owning, occupying, using or keeping such house, enclosure, room or place, whether by way of charge for the use of the instruments of gaming, or of the house, enclosure, room or place or otherwise howsoever :

<sup>1</sup> For Statement of Object and Reasons, see *Gazette of India*, 1866, p. 976 ; for Report of the Select Committee, see *ibid.*, 1867, Supplement, p. 44, and for Proceedings in Council, see *ibid.*, 1866, p. 662 ; *ibid.*, 1867, pp. 43 and 52.

Short title, the Public Gambling Act, 1867, see the Amending Act, 1897 (V of 1897), General Acts, Vol. IV.

By Section 10 of the Schedule Districts Act, 1874 (XIV of 1874) the Act was declared to be in force in the tract of land lying between the Railway Station at Satna and the Eastern boundary of the Jabalpur District.

<sup>2</sup> These two Provinces are now known as the United Provinces of Agra and Oudh, see Proclamation No. 916-P., dated the 22nd March 1902, *Gazette of India*, 1902, Pt. I, p. 224.

<sup>3</sup> The words “and the Central Provinces” were substituted for the words “the Central Provinces and British Burma” by the Amending Act, 1903 (I of 1903), Bengal Code.

<sup>4</sup> Read now Lieutenant-Governor of the United Provinces of Agra and Oudh, see s. 2 of the United Provinces (Designation) Act, 1902 (VII of 1902), General Acts, Vol. V.

<sup>5</sup> The word “and” was inserted by the Amending Act, 1891 (XII of 1891), sch. 2, General Acts, Vol. IV.

<sup>6</sup> This title has now merged in that of the Lieutenant-Governor of the United Provinces of Agra and Oudh, see the United Provinces (Designation) Act, 1902 (VII of 1902), General Acts, Vol. V.

<sup>7</sup> These words were substituted for the words “of the Chief Commissioner of the Central Provinces and of the Chief Commissioner of British Burma” by the Amending Act, 1903 (I of 1903).

<sup>8</sup> This definition was substituted for the original definition by the Amending Act, 1903 (I of 1903).

[Number. Gender.] *Repealed Act 17 of 1914, Sec. 3 and Second Schedule.*

2. <sup>1</sup> [Sections 13 and 17] of this Act shall extend to the whole of the said territories; and it shall be competent to the Lieutenant-Governor or the Chief Commissioner, as the case may be, whenever he may think fit, to extend by a notification <sup>2</sup> to be published in three successive numbers of the official Gazette, all or any of the remaining sections of this Act to any city, town, suburb, railway-station-house and place being not more than three miles distant from any part of such station-house within the territories subject to his government or administration, and in such notification to define, for the purposes of this Act, the limits of such city, town, suburb or station-house, and from time to time to alter the limits so defined.

Power to extend Act.

From the date of any such extension, so much of any rule having the force of law which shall be in operation in the territories, to which such extension shall have been made, as shall be inconsistent with or repugnant to any section so extended, shall cease to have effect in such territories.

3. Whoever, being the owner or occupier, or having the use, of any house, walled enclosure, room or place, situate within the limits to which this Act applies, opens, keeps or uses the same as a common gaming-house; and

Penalty for owning or keeping, or having charge of a gaming-house.

whoever, being the owner or occupier of any such house, walled enclosure, room or place as aforesaid, knowingly or wilfully permits the same to be opened, occupied, used or kept by any other person as a common gaming-house; and

whoever has the care or management of, or in any manner assists in conducting, the business of any house, walled enclosure, room or place as aforesaid, opened, occupied, used or kept for the purpose aforesaid; and

whoever advances or furnishes money for the purpose of gaming with persons frequenting such house, walled enclosure, room or place,

shall be liable to a fine not exceeding two hundred rupees, or to imprisonment of either description,<sup>3</sup> as defined in the Indian Penal Code, for any term not exceeding three months.<sup>4</sup>

4. Whoever is found in any such house, walled enclosure, room or place, playing or gaming with cards, dice, counters, money or other instruments of gaming, or is found there present for the purpose of gaming, whether playing for any money, wager, stake or otherwise, shall be liable to a fine not exceed-

Penalty for being found in gaming house.

<sup>1</sup> Substituted for the words and figures, "ss. 13, 17 and 18" by the Amending Act, 1891 (XII of 1891), General Acts, Vol. IV.

<sup>2</sup> For notification under s. 2 extending the rest of the Act to towns in the Central Provinces, see Central Provinces Local Rules and Orders.

<sup>3</sup> See s. 53 of Act XLV of 1890, General Act, Vol. I.

<sup>4</sup> As to enhanced punishment for a second conviction of an offence under s. 3 or s. 4, see s. 15 of this Act, *infra*.

ing one hundred rupees, or to imprisonment of either description,<sup>1</sup> as defined in the Indian Penal Code, for any term not exceeding one month ;<sup>2</sup>

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and any person found in any common gaming-house during any gaming or playing therein shall be presumed, until the contrary be proved, to have been there for the purpose of gaming.

Power to enter and authorize Police to enter and search.

5. If the Magistrate of a district,<sup>3</sup> or other officer invested with the full powers of a Magistrate, or the District Superintendent of Police, upon credible information, and after such enquiry as he may think necessary, has reason to believe that any house, walled enclosure, room or place, is used as a common gaming-house,

he may either himself enter, or by his warrant authorize any officer of Police, not below such rank as the Lieutenant-Governor or Chief Commissioner shall<sup>4</sup> appoint in this behalf, to enter, with such assistance as may be found necessary, by night or by day, and by force, if necessary, any such house, walled enclosure, room or place,

and may either himself take into custody, or authorize such officer to take into custody, all persons whom he or such officer finds therein, whether or not then actually gaming ;

and may seize or authorize such officer to seize all instruments of gaming, and all monies and securities for money, and articles of value, reasonably suspected to have been used or intended to be used for the purpose of gaming, which are found therein ;

and may search or authorize such officer to search all parts of the house, walled enclosure, room or place, which he or such officer shall have so entered when he or such officer has reason to believe that any instruments of gaming are concealed therein, and also the persons of those whom he or such officer so takes into custody ;

and may seize or authorize such officer to seize and take possession of all instruments of gaming found upon such search.

Finding cards, etc., in suspected houses, to be evidence that such houses are common gaming-houses.

6. When any cards, dice, gaming-tables, cloths, boards or other instruments of gaming<sup>5</sup> are found in any house, walled enclosure, room or place, entered or searched under the provisions of the last preceding section, or about the person of any of those who are found therein, it shall be evidence, until the contrary is made to appear, that such house, walled enclosure, room or place

<sup>1</sup> See s. 53 of Act XLV of 1860, General Acts, Vol. I.

<sup>2</sup> As to enhanced punishment for a second conviction of an offence under s. 3 or s. 4, see s. 15 of this Act, *infra*.

<sup>3</sup> Read District Magistrate and Magistrate of the first class, respectively, see Code of Criminal Procedure, 1898 (Act V of 1898), s. 3, General Acts, Vol. V.

<sup>4</sup> For order by the Chief Commissioner under s. 5, see Central Provinces Local Rules and Orders.

<sup>5</sup> "Cowries" are not "instruments of gaming" within the meaning of s. 6, Queen-Empress *versus* Bharsani, I. L. R., 18 All., 23.

is used as a common gaming house, and that the persons found therein were there present for the purpose of gaming, although no play was actually seen by the Magistrate or police-officer or any of his assistants.

7. If any person found in any common gaming-house entered by any Magistrate or officer of Police under the provisions of this Act, upon being arrested by any such officer or upon being brought before any Magistrate, on being required by such officer or Magistrate to give his name and address, shall refuse or neglect to give the same, or shall give any false name or address, he may upon conviction before the same or any other Magistrate be adjudged to pay any penalty not exceeding five hundred rupees, together with such costs as to such Magistrate shall appear reasonable, and on the non-payment of such penalty and costs, or in the first instance, if to such Magistrate it shall seem fit, may be imprisoned for any period not exceeding one month.

Penalty on persons arrested for giving false names and addresses.

8. On conviction of any person for keeping or using any such common gaming-house, or being present therein for the purpose of gaming, the convicting Magistrate may order all the instruments of gaming found therein to be destroyed, and may also order all or any of the securities for money and other articles seized, not being instruments of gaming, to be sold and converted into money, and the proceeds thereof with all monies seized therein to be forfeited; or, in his discretion, may order any part thereof to be returned to the persons appearing to have been severally thereunto entitled.

On conviction for keeping a gaming-house, instruments of gaming to be destroyed.

9. It shall not be necessary, in order to convict any person of keeping a common gaming-house, or of being concerned in the management of any common gaming-house, to prove that any person found playing at any game was playing for any money, wager or stake.

Proof of playing for stakes unnecessary.

10. It shall be lawful for the Magistrate before whom any persons shall be brought, who have been found in any house, walled enclosure, room or place entered under the provisions of this Act, to require any such persons to be examined on oath or solemn affirmation, and give evidence touching any unlawful gaming in such house, walled enclosure, room or place, or touching any act done for the purpose of preventing, obstructing or delaying the entry into such house, walled enclosure, room or place or any part thereof, of any Magistrate or officer authorized as aforesaid.

Magistrate may require any person apprehended to be sworn and give evidence.

No person so required to be examined as a witness shall be excused from being so examined when brought before such Magistrate as aforesaid, or from being so examined at any subsequent time by or before the same or any other Magistrate, or by or before any Court on any proceeding or trial in any ways relating to such unlawful gaming or any such acts as aforesaid, or from answering any question put to him touching the matters aforesaid, on the ground that his evidence will tend to criminate himself.

Any such person so required to be examined as a witness, who refuses to make oath or take affirmation accordingly or to answer any such question as aforesaid, shall be subject to be dealt with in all respects as any person committing the offence described in section 178 or section 179 (as the case may be) of the Indian Penal Code.

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Witnesses  
indemnified.

11. Any person who shall have been concerned in gaming contrary to this Act, and who shall be examined as a witness before a Magistrate on the trial of any person for a breach of any of the provisions of this Act relating to gaming, and who, upon such examination, shall in the opinion of the Magistrate make true and faithful discovery, to the best of his knowledge, of all things as to which he shall be so examined, shall thereupon receive from the said Magistrate a certificate in writing to that effect, and shall be freed from all prosecutions under this Act for anything done before that time in respect of such gaming.

Act not to  
apply to  
certain  
games.  
Gaming and  
setting birds  
and animals  
to fight in  
public  
streets.

12. Nothing in the foregoing provisions of this Act contained shall be held to apply to any game of mere skill wherever played.

13. A Police-officer may apprehend without warrant--

any person found playing for money or other valuable thing with cards, dice, counters or other instruments of gaming, used in playing any game not being a game of mere skill, in any public street, place or thoroughfare situated within the limits aforesaid, or

any person setting any birds or animals to fight in any public street, place or thoroughfare situated within the limits aforesaid, or

any person there present aiding and abetting such public fighting of birds and animals.

Such person when apprehended shall be brought without delay before a Magistrate, and shall be liable to a fine not exceeding fifty rupees, or to imprisonment, either simple or rigorous, for any term not exceeding one calendar month ;

Destruction  
of instru-  
ments of  
gaming  
found in  
public  
streets.  
Offences by  
whom triable.

and such Police-officer may seize all instruments of gaming found in such public place or on the person of those whom he shall so arrest, and the Magistrate may on conviction of the offender order such instruments to be forthwith destroyed.

14. Offences punishable under this Act shall be triable by any Magistrate having jurisdiction in the place where the offence is committed.

But such Magistrate shall be restrained within the limits of his jurisdiction under the Code of Criminal Procedure,<sup>1</sup> as to the amount of fine or imprisonment he may inflict.

<sup>1</sup> See now the Code of Criminal Procedure, 1898 (Act V of 1898), General Acts, Vol. V.

15. Whoever, having been convicted of an offence punishable under section 3 or section 4 of this Act, shall again be guilty of any offence punishable under either of such sections, shall be subject for every such subsequent offence to double the amount of punishment to which he would have been liable for the first commission of an offence of the same description: Penalty for subsequent offence.

Provided that he shall not be liable in any case to a fine exceeding six hundred rupees, or to imprisonment for a term exceeding one year.

16. The Magistrate trying the case may direct any portion of any fine which shall be levied under sections 3 and 4 of this Act, or any part of the monies or proceeds of articles seized and ordered to be forfeited under this Act, to be paid to an informer. Portion of fine may be paid to informer.

17. All fines imposed under this Act, may be recovered in the manner prescribed by section 61<sup>1</sup> of the Code of Criminal Procedure, and such fines shall (subject to the provisions contained in the last preceding section) be applied as the Lieutenant-Governor or Chief Commissioner, as the case may be, shall from time to time direct.<sup>2</sup> Recovery and application of fines.

18. [Offences under this Act to be "offences" within meaning of Penal Code.] *Rep. Act XVI of 1871, section 1, and Sched., Part I.*

### ACT No. XXXII OF 1867.<sup>3</sup>

[THE CHIEF COMMISSIONERS' POWERS ACT, 1867.]

[The 18th July, 1867.]

An Act to enable the Governor General of India in Council to delegate to a Chief Commissioner any power conferred on a Local Government by an Act of the Governor General of India in Council.

WHEREAS it is expedient to enable the Governor General of India in Council to delegate to \* \* \* the<sup>4</sup> [Chief Commissioner] of \* \* \* the Central Preamble.

<sup>1</sup> See now ss. 380, 387 and 389 of Act V of 1894.

<sup>2</sup> As to crediting such fines to municipal funds in the Central Provinces, see the Central Provinces Municipal Act, 1903 (XVI of 1903), s. 49, *infra*, p. 255.

<sup>3</sup> For Statement of Objects and Reasons, see *Gazette of India*, 1867, p. 1003, and for Proceedings in Council, see *ibid.*, Supplement, 1867, pp. 491, 506 and 53.

<sup>4</sup> The words "any of" and "Oudh" were omitted by the Repealing and Amending Act, 1914 (X of 1914), Second Schedule.

<sup>5</sup> These words were substituted for the words "Chief Commissioners" by the Repealing and Amending Act, 1914 (X of 1914), First Schedule.

Provinces \* \* \*<sup>1</sup> any power conferred on the Governor General in Council as the Local Government of the territories under the administration of such Commissioner by any Act of the said Governor General in Council; It is hereby enacted as follows :—

Governor General in Council empowered to delegate to Chief Commissioners certain powers.

1. It shall be lawful for the Governor General of India in Council, by a notification published in the Gazette of India, to delegate<sup>2</sup> to the Chief Commissioner of \*<sup>3</sup> the Central Provinces \* \* \*<sup>1</sup> \* \* \*<sup>3</sup> all or any of the powers<sup>2</sup> heretofore or hereafter conferred by any Act of the Governor General of India in Council on the Governor General of India in Council as the Local Government of the territories under the administration of such Chief Commissioner; and all acts done by the Chief Commissioner to whom any such power shall have been delegated as aforesaid in exercise of the same power, shall be as valid as if they had been done by the said Governor General in Council.

Short title.

2. This Act may be called the Chief Commissioners' Powers Act

## THE NORTHERN INDIA CANAL AND DRAINAGE ACT, 1873. (VIII OF 1873.)

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<sup>2</sup> For powers delegated under s. 1, to the Chief Commissioner of the Central Provinces, see Central Provinces Local Rules and Orders, and *Gazette of India*, 1914, Part I, page 1279.

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[THE NORTHERN INDIA CANAL AND DRAINAGE ACT, 1873.]

[11th February, 1873.]

An Act to regulate Irrigation, Navigation and Drainage in  
Northern India.

## Preamble.

WHEREAS, throughout the territories to which this Act extends, the Government is entitled to use and control for public purposes the water of all rivers and streams flowing in natural channels, and of all lakes and other natural collections of still water; and whereas it is expedient to amend the law relating to irrigation, navigation and drainage in the said territories; It is hereby enacted as follows:—

## PART I.

## PRELIMINARY.

## Short title.

1. This Act may be called the Northern India Canal and Drainage Act, 1873 :

## Local extent.

It extends to the territories for the time being respectively under the Government of the Lieutenant-Governors of the North-Western Provinces<sup>2</sup> and the Punjab, and under the administration of the Chief Commissioners of Oudh<sup>2</sup> and the Central Provinces; and applies to all lands, whether permanently settled, temporarily settled, or free from revenue.

[*Commencement.*] *Rep. Act XVI of 1874.*

2. [*Repeal of Acts.*] *Rep. Act XII of 1873.*

## Interpretation clause.

3. In this Act, unless there be something repugnant in the subject or context,—

(1) "canal" includes—

(a) all canals, channels and reservoirs constructed, maintained, or controlled by Government for the supply or storage of water ;

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1872, Pt. V, p. 651; for Reports of the Select Committee, see *ibid.*, p. 747, and Supplement, 1873, p. 223, and for Proceedings in Council, see *ibid.*, Supplement, pp. 919, 956 and 1081; *ibid.*, 1873, Supplement, pp. 54, 156, 223, 246 and 279.

<sup>2</sup> Read now in each case the Lieutenant-Governor of the United Provinces of Agra and Oudh, see s. 2 of the United Provinces (Designation) Act, 1902 (VII of 1902), General Acts, Vol. V.

<sup>3</sup> For extension of meaning of "canal," with respect to offences and penalties, see s. 74, *infra*.

(b) all works, embankments, structures, supply and escape-channels connected with such canals, channels or reservoirs ;

(c) all water-courses as defined in the second clause of this section ;

(d) any part of a river, stream, lake or natural collection of water, or natural drainage-channel, to which the Local Government has applied the provisions of Part II of this Act ;

(2) " water-course " means any channel which is supplied with water from a canal, but which is not maintained at the cost of Government, and all subsidiary works belonging to any such channel ; " Water-course."

(3) " drainage-work " includes escape-channels from a canal, dams, weirs, embankments, sluices, groins and other works for the protection of lands from flood or from erosion, formed or maintained by the Government under the provisions of Part VII of this Act, but does not include works for the removal of sewage from towns ; " Drainage-work."

(4) " vessel " includes boats, rafts, timber and other floating bodies ; " Vessel."

(5) " Commissioner " means a Commissioner of a division, and includes any officer appointed under this Act<sup>3</sup> to exercise all or any of the powers of a Commissioner ; " Commissioner."

(6) " Collector " means the head revenue officer of a district, and includes a Deputy Commissioner or other officer appointed under this Act<sup>2</sup> to exercise all or any of the powers of a Collector ; " Collector."

(7) " Canal-officer " means an officer appointed under this Act<sup>3</sup> to exercise control or jurisdiction over a canal or any part thereof ; " Canal-officer."

" Superintending Canal-officer " means an officer exercising general control over a canal or portion of a canal ; " Superintending Canal-officer."

" Divisional Canal-officer " means an officer exercising control over a division of a canal ; " Divisional Canal-officer."

" Sub-divisional Canal-officer " means an officer exercising control over a sub-division of a canal ; " Sub-divisional Canal-officer."

(8) " district " means a district as fixed for revenue purposes. " District."

4. The Local Government may from time to time declare, by notification in the official Gazette, the officers by whom, and the local limits within which, all or any of the powers or duties hereinafter conferred or imposed shall be exercised or performed. Power to appoint officers.

All officers mentioned in section 3, clause (7), shall be respectively subject to the orders of such officers as the Local Government from time to time directs.

<sup>1</sup> Cf. definition of " vessel " in s. 3 (56), General Clauses Act, 1897 (X of 1897), General Acts, Vol. IV.

<sup>2</sup> See s. 4, *infra*.

<sup>3</sup> Cf. definition of " Collector " in s. 3 (10), General Clauses Act, 1897 (X of 1897), General Acts, Vol. IV.

## PART II.

## OF THE APPLICATION OF WATER FOR PUBLIC PURPOSES.

Notification  
to issue when  
water-supply  
is to be ap-  
plied for  
public  
purposes.

5. Whenever it appears expedient to the Local Government that the water of any river or stream flowing in a natural channel, or of any lake or other natural collection of still water, should be applied or used by the Government for the purpose of any existing or projected canal or drainage-work, the Local Government may, by notification in the official Gazette, declare that the said water will be so applied or used after a day to be named in the said notification, not being earlier than three months from the date thereof.

Powers of  
Canal-officer.

6. At any time after the day so named, any Canal-officer, acting under the orders of the Local Government in this behalf, may enter on any land and remove any obstructions, and may close any channels, and do any other thing necessary for such application or use of the said water.

Notice as to  
claims for  
compensa-  
tion.

7. As soon as is practicable after the issue of such notification, the Collector shall cause public notice to be given at convenient places stating that the Government intends to apply or use the said water as aforesaid, and that claims for compensation in respect of the matters mentioned in section 8 may be made before him.

Damage for  
which com-  
pensation  
shall not be  
awarded.

8. No compensation shall be awarded for any damage caused by—

- (a) stoppage or diminution of percolation or floods ;
- (b) deterioration of climate or soil ;
- (c) stoppage of navigation, or of the means of drifting timber or watering cattle ;
- (d) displacement of labour.

Matters in  
respect of  
which com-  
pensation  
may be  
awarded.

But compensation may be awarded in respect of any of the following matters :

- (e) stoppage or diminution of supply of water through any natural channel to any defined artificial channel, whether above or under ground, in use at the date of the said notification ;
- (f) stoppage or diminution of supply of water to any work erected for purposes of profit on any channel, whether natural or artificial, in use at the date of the said notification ;
- (g) stoppage or diminution of supply of water through any natural channel which has been used for purposes of irrigation within the five years next before the date of the said notification ;
- (h) damage done in respect of any right to a water-course or the use of any water to which any person is entitled under the Indian Limitation Act, 1871, Part IV ;<sup>1</sup>

IX of 1871.

<sup>1</sup> See now the Indian Limitation Act, 1908 (IX of 1908), General Acts, Vol. VI.

(i) any other substantial damage, not falling under any of the above clauses (a), (b), (c) or (d), and caused by the exercise of the powers conferred by this Act, which is capable of being ascertained and estimated at the time of awarding such compensation.

In determining the amount of such compensation regard shall be had to the diminution in the market-value, at the time of awarding compensation, of the property in respect of which compensation is claimed; and, where such market-value is not ascertainable, the amount shall be reckoned at twelve times the amount of the diminution of the annual net profits of such property, caused by the exercise of the powers conferred by this Act.

No right to any such supply of water as is referred to in clause (e), (f) or (g) of this section, in respect of a work or channel not in use at the date of the notification, shall be acquired as against the Government, except by  
X of 1871. grant or under the Indian Limitation Act, 1871, Part IV.<sup>1</sup>

And no right to any of the advantages referred to in clauses (u), (b) and (c) of this section shall be acquired, as against the Government, under the same Part.

9. No claim for compensation for any such stoppage, diminution or damage shall be made after the expiration of one year from such stoppage, diminution or damage, unless the Collector is satisfied that the claimant had sufficient cause for not making the claim within such period. Limitation of claims.

10.<sup>2</sup> The Collector shall proceed to enquire into any such claim, and to determine the amount of compensation, if any, which should be given to the claimant; and sections 9 to 12 (inclusive), 14 and 15, 18 to 23 (inclusive), 26 to 40 (inclusive), 51, 57, 58 and 59 of the Land-acquisition Act,<sup>3</sup> 1870, shall  
X of 1870. apply to such enquiries: Enquiry into claims and amount of compensation.

Provided that, instead of the last clause of the said section 26,<sup>4</sup> the following shall be read: "The provisions of this section and of section 8 of the Northern India Canal and Drainage Act, 1873, shall be read to every assessor in a language which he understands, before he gives his opinion as to the amount of compensation to be awarded."

11. Every tenant holding under an unexpired lease, or having a right of occupancy, who is in occupation of any land at the time when any stoppage or diminution of water-supply, in respect of which compensation is allowed under Abatement of rent on interruption of water-supply.

<sup>1</sup> See now the Indian Limitation Act, 1908 (IX of 1908), General Acts, Vol. VI.

<sup>2</sup> As to the application of s. 10 in case of claims to compensation on account of drainage-works, see s. 61, *infra*.

<sup>3</sup> See now the Land-acquisition Act, 1894 (I of 1894), General Acts, Vol. IV.

<sup>4</sup> See now s. 25 of the Land-acquisition Act, 1894 (I of 1894), which however does not contain a clause corresponding to the last clause of s. 26 of Act X of 1870.

section 8, takes place, may claim an abatement of the rent previously payable by him for the said land, on the ground that the interruption reduces the value of the holding.

Enhancement  
of rent on re-  
storation of  
water-supply.

12. If a water-supply increasing the value of such holding is afterwards restored to the said land, the rent of the tenant may be enhanced, in respect of the increased value of such land due to the restored water-supply, to an amount not exceeding that at which it stood immediately before the abatement.

Such enhancement shall be on account only of the restored water-supply, and shall not affect the liability of the tenant to enhancement of rent on any other grounds.

Compensation  
when due.

13. All sums of money payable for compensation under this Part shall become due three months after the claim for such compensation is made in respect of the stoppage, diminution or damage complained of,

Interest.

and simple interest at the rate of six per cent. per annum shall be allowed on any such sum remaining unpaid after the said three months, except where the non-payment of such sum is caused by the wilful neglect or refusal of the claimant to receive the same.

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### PART III.

#### OF THE CONSTRUCTION AND MAINTENANCE OF WORKS.

Power to  
enter and  
survey, etc.

14.<sup>1</sup> Any Canal-officer, or other person acting under the general or special order of a Canal-officer,

may enter upon any lands adjacent to any canal, or through which any canal is proposed to be made, and undertake surveys or levels thereon ;

and dig and bore into the sub-soil ;

and make and set up suitable land-marks, level-marks and water-gauges ;

and do all other acts necessary for the proper prosecution of any enquiry relating to any existing or projected canal under the charge of the said Canal-officer ;

Power to  
clear land.

and, where otherwise such enquiry cannot be completed, such officer or other person may cut down and clear away any part of any standing crop, fence or jungle ;

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<sup>1</sup> As to the application of s. 14 in the case of proposed drainage-works, see s. 58, *infra*.



and may also enter upon any land, building or water-course on account of which any water-rate is chargeable, for the purpose of inspecting or regulating the use of the water supplied, or of measuring the lands irrigated thereby or chargeable with a water-rate, and of doing all things necessary for the proper regulation and management of such canal :

Power to inspect and regulate water-supply.

Provided that, if such Canal-officer or person proposes to enter into any building or enclosed court or garden attached to a dwelling-house not supplied with water flowing from any canal, he shall previously give the occupier of such building, court or garden at least seven days' notice in writing of his intention to do so.

Notice of intended entry into houses.

In every case of entry under this section, the Canal-officer shall at the time of such entry tender compensation for any damage which may be occasioned by any proceeding under this section ; and, in case of dispute as to the sufficiency of the amount so tendered, he shall forthwith refer the same for decision by the Collector, and such decision shall be final.

Compensation for damage caused by entry.

15. In case of any accident happening or being apprehended to a canal, any Divisional Canal-officer, or any person acting under his general or special orders in this behalf, may enter upon any lands adjacent to such canal, and may execute all works which may be necessary for the purpose of repairing or preventing such accident.

Power to enter for repairs and to prevent accidents.

In every such case such Canal-officer or person shall tender compensation to the proprietors or occupiers of the said lands for all damage done to the same. If such tender is not accepted, the Canal-officer shall refer the matter to the Collector, who shall proceed to award compensation for the damage as though the Local Government had directed the occupation of the lands under section 43 of the Land-acquisition Act, 1870.<sup>1</sup>

Compensation for damage to land.

1870.

16. Any persons desiring to use the water of any canal may apply in writing to the Divisional or Sub-divisional Canal-officer of the division or sub-division of the canal from which the water-course is to be supplied requesting such officer to construct or improve a water-course at the cost of the applicants.

Application by persons desiring to use canal-water.

The application shall state the works to be undertaken, their approximate estimated cost, or the amount which the applicants are willing to pay for the same, or whether they engage to pay the actual cost as settled by the Divisional Canal-officer, and how the payment is to be made.

Contents of application.

When the assent of the Superintending Canal-officer is given to such application, all the applicants shall, after the application has been duly attested before the Collector, be jointly and severally liable for the cost of such works to the extent mentioned therein.

Liability of applicants for cost of works.

<sup>1</sup> See now the Land-acquisition Act, 1904 (1 of 1904), General Acts, Vol. IV.

Recovery of  
amount due.

Any amount becoming due under the terms of such application, and not paid to the Divisional Canal-officer, or the person authorized by him to receive the same, on or before the date on which it becomes due, shall, on the demand of such officer, be recoverable by the Collector as if it were an arrear of land-revenue.

Government  
to provide  
means of  
crossing  
canals.

17. There shall be provided, at the cost of Government, suitable means of crossing canals constructed or maintained at the cost of Government, at such places as the Local Government thinks necessary for the reasonable convenience of the inhabitants of the adjacent lands.

On receiving a statement in writing, signed by not less than five of the owners of such lands, to the effect that suitable crossings have not been provided on any canal, the Collector shall cause enquiry to be made into the circumstances of the case, and if he thinks that the statement is established, he shall report his opinion thereon for the consideration of the Local Government, and the Local Government shall cause such measures in reference thereto to be taken as it thinks proper.

Persons  
using water-  
course to  
construct  
works for  
passing water  
across roads,  
etc.

18. The Divisional Canal-officer may issue an order to the persons using any water-course to construct suitable bridges, culverts or other works for the passage of the water of such water-course across any public road, canal or drainage-channel in use before the said water-course was made, or to repair any such works.

If they fail,  
Canal-officer  
may con-  
struct

Such order shall specify a reasonable period within which such construction or repairs shall be completed ;

and if, after the receipt of such order, the persons to whom it is addressed do not, within the said period, construct or repair such works to the satisfaction of the said Canal-officer, he may, with the previous approval of the Superintending Canal-officer, himself construct or repair the same ;

and recover  
cost.

and if the said persons do not, when so required, pay the cost of such construction or repairs as declared by the Divisional Canal-officer, the amount shall, on the demand of the Divisional Canal-officer, be recoverable from them by the Collector as if it were an arrear of land-revenue.

Adjustment  
of claims  
between  
persons  
jointly using  
water-course.

19. If any person, jointly responsible with others for the construction or maintenance of a water-course, or jointly making use of a water-course with others, neglects or refuses to pay his share of the cost of such construction or maintenance, or to execute his share of any work necessary for such construction or maintenance, the Divisional or Sub-divisional Canal-officer, on receiving an application in writing from any person injured by such neglect or refusal, shall serve notice on all the parties concerned that, on the expiration of a fortnight from the service, he will investigate the case ; and shall, on the

expiration of that period, investigate the case accordingly, and make such order thereon as to him seems fit.

Such order shall be appealable to the Commissioner, whose order thereon shall be final.

Any sum directed by such order to be paid within a specified period may, if not paid within such period, and if the order remains in force, be recovered by the Collector, from the person directed to pay the same, as if it were an arrear of land-revenue. Recovery of amount found due.

**20.** Whenever application is made to a Divisional Canal-officer for a supply of water from a canal, and it appears to him expedient that such supply should be given and that it should be conveyed through some existing water-course, he shall give notice to the persons responsible for the maintenance of such water-course to show cause, on a day not less than fourteen days from the date of such notice, why the said supply should not be so conveyed; and, after making enquiry on such day, the Divisional Canal-officer shall determine whether and on what conditions the said supply shall be conveyed through such water-course. Supply of water through intervening water-course.

When such officer determines that a supply of canal-water may be conveyed through any water-course as aforesaid, his decision shall, when confirmed or modified by the Superintending Canal-officer, be binding on the applicant and also on the persons responsible for the maintenance of the said water-course.

Such applicant shall not be entitled to use such water-course until he has paid the expense of any alteration of such water-course necessary in order to his being supplied through it, and also such share of the first cost of such water-course as the Divisional or Superintending Canal-officer may determine. Such applicant shall also be liable for his share of the cost of maintenance of such water-course so long as he uses it.

**21.** Any person desiring the construction of a new water-course may apply in writing to the Divisional Canal-officer, stating— Application for construction of new water-course.

- (1) that he has endeavoured unsuccessfully to acquire, from the owners of the land through which he desires such water-course to pass, a right to occupy so much of the land as will be needed for such water-course;
- (2) that he desires the said Canal-officer, in his behalf and at his cost, to do all things necessary for acquiring such right;
- (3) that he is able to defray all costs involved in acquiring such right and constructing such water-course.

**22.** If the Divisional Canal-officer considers—

- (1) that the construction of such water-course is expedient, and

Procedure of Canal-officer thereupon.

(2) that the statements in the application are true,

he shall call upon the applicant to make such deposit as the Divisional Canal-officer considers necessary to defray the cost of the preliminary proceedings, and the amount of any compensation which he considers likely to become due under section 28 ;

and, upon such deposit being made, he shall cause enquiry to be made into the most suitable alignment for the said water-course, and shall mark out the land which, in his opinion, it will be necessary to occupy for the construction thereof, and shall forthwith publish a notice in every village through which the water-course is proposed to be taken, that so much of such land as belongs to such village has been so marked out, and shall send a copy of such notice to the Collector of every district in which any part of such land is situate.

Application  
for transfer  
of existing  
water-course.

23. Any person desiring that an existing water-course should be transferred from its present owner to himself may apply in writing to the Divisional Canal-officer, stating—

(1) that he has endeavoured unsuccessfully to procure such transfer from the owner of such water-course ;

(2) that he desires the said Canal-officer, in his behalf and at his cost, to do all things necessary for procuring such transfer ;

(3) that he is able to defray the cost of such transfer.

Procedure  
thereupon.

If the Divisional Canal-officer considers—

(a) that the said transfer is necessary for the better management of the irrigation from such water-course, and

(b) that the statements in the application are true,

he shall call upon the applicant to make such deposit as the Divisional Canal-officer considers necessary to defray the cost of the preliminary proceedings, and the amount of any compensation that may become due under the provisions of section 28 in respect of such transfer ;

and, upon such deposit being made, he shall publish a notice of the application in every village, and shall send a copy of the notice to the Collector of every district, through which such water-course passes.

Objections to  
construction  
or transfer  
applied for.

24. Within thirty days from the publication of a notice under section 22 or section 23, as the case may be, any person interested in the land or water-course to which the notice refers may apply to the Collector by petition, stating his objection to the construction or transfer for which application has been made.

The Collector may either reject the petition or may proceed to enquire into the validity of the objection, giving previous notice to the Divisional Canal-officer of the place and time at which such enquiry will be held.

The Collector shall record in writing all orders passed by him under this section and the grounds thereof.

25. If no such objection is made, or (where such objection is made) if the Collector over-rules it, he shall give notice to the Divisional Canal-officer to that effect, and shall proceed forthwith to place the said applicant in occupation of the land marked out or of the water-course to be transferred, as the case may be.

When applicant may be placed in occupation.

26. If the Collector considers any objection made as aforesaid to be valid he shall inform the Divisional Canal-officer accordingly ; and, if such officer sees fit, he may, in the case of an application under section 21, alter the boundaries of the land so marked out, and may give fresh notice under section 22, and the procedure hereinbefore provided shall be applicable to such notice, and the Collector shall thereupon proceed as before provided.

Procedure when objection is held valid.

27. If the Canal-officer disagrees with the Collector, the matter shall be referred for decision to the Commissioner.

Procedure when Canal-officer disagrees with Collector.

Such decision shall be final, and the Collector, if he is so directed by such decision, shall, subject to the provisions of section 28, cause the said applicant to be placed in occupation of the land so marked out or of the water-course to be transferred, as the case may be.

28. No such applicant shall be placed in occupation of such land or water-course until he has paid to the person named by the Collector such amount as the Collector determines to be due as compensation for the land or water-course so occupied or transferred, and for any damage caused by the marking out or occupation of such land, together with all expenses incidental to such occupation or transfer.

Expenses to be paid by applicant before receiving occupation.

870. In determining the compensation to be made under this section, the Collector shall proceed under the provisions of the <sup>1</sup>Land-acquisition Act, X of 1870 ; but he may, if the person to be compensated so desire, award such compensation in the form of a rent-charge payable in respect of the land or water-course occupied or transferred.

Procedure in fixing compensation.

If such compensation and expenses are not paid when demanded by the person entitled to receive the same, the amount may be recovered by the Collector as if it were an arrear of land-revenue, and shall, when recovered, be paid by him to the person entitled to receive the same.

Recovery of compensation and expenses.

29. When any such applicant is placed in occupation of land or of a water-course as aforesaid, the following rules and conditions shall be binding on him and his representative in interest :—

Conditions binding on applicant placed in occupation.

*First*.—All works necessary for the passage across such water-course of water-courses existing previous to its construction and of the

<sup>1</sup> See now the Land-acquisition Act, 1894 (1 of 1894), General Acts, Vol. IV.

drainage intercepted by it, and for affording proper communications across it for convenience of the neighbouring lands, shall be constructed by the applicant, and be maintained by him or his representative in interest to the satisfaction of the Divisional Canal-officer.

*Second.*—Land occupied for a water-course under the provisions of section 22 shall be used only for the purpose of such water-course.

*Third.*—The proposed water-course shall be completed to the satisfaction of the Divisional Canal-officer within one year after the applicant is placed in occupation of the land.

In cases in which land is occupied or a water-course is transferred on the terms of a rent-charge :

*Fourth.*—The applicant or his representative in interest shall, so long as he occupies such land or water-course, pay rent for the same at such rate and on such days as are determined by the Collector when the applicant is placed in occupation.

*Fifth.*—If the right to occupy the land cease owing to a breach of any of these rules, the liability to pay the said rent shall continue until the applicant or his representative in interest has restored the land to its original condition, or until he has paid, by way of compensation for any injury done to the said land, such amount and to such persons as the Collector determines.

*Sixth.*—The Collector may, on the application of the person entitled to receive such rent or compensation, determine the amount of rent due or assess the amount of such compensation ; and, if any such rent or compensation be not paid by the applicant or his representative in interest, the Collector may recover the amount, with interest thereon at the rate of six per cent. per annum from the date on which it became due, as if it were an arrear of land-revenue, and shall pay the same, when recovered, to the person to whom it is due.

If any of the rules and conditions prescribed by this section are not complied with, .

or if any water-course constructed or transferred under this Act is disused for three years continuously,

the right of the applicant, or of his representative in interest, to occupy such land or water-course shall cease absolutely.

30. The procedure hereinbefore provided for the occupation of land for the construction of a water-course shall be applicable to the occupation of land for

any extension or alteration of a water-course, and for the deposit of soil from of extensions and alterations.  
water-course clearances.

## PART IV.

## OF THE SUPPLY OF WATER.

31. In the absence of a written contract, or so far as any such contract does not extend, every supply of canal-water shall be deemed to be given at the rates and subject to the conditions prescribed by the rules to be made by the Local Government in respect thereof. In absence of written contract, water-supply to be subject to rules.

32. Such contracts and rules must be consistent with the following conditions :— Conditions as to—

(a) The Divisional Canal-officer may not stop the supply of water to any water-course, or to any person, except in the following cases :— power to stop water-supply;

(1) whenever and so long as it is necessary to stop such supply for the purpose of executing any work ordered by competent authority and with the previous sanction of the Local Government ;

(2) whenever and so long as any water-course is not maintained in such proper customary repair as to prevent the wasteful escape of water therefrom ;

(3) within periods fixed from time to time by the Divisional Canal-officer :

(b) No claim shall be made against the Government for compensation in respect of loss caused by the failure or stoppage of the water in a canal, by reason of any cause beyond the control of the Government, or of any repairs, alterations or additions to the canal, or of any measures taken for regulating the proper flow of water therein, or for maintaining the established course of irrigation which the Divisional Canal-officer considers necessary ; but the person suffering such loss may claim such remission of the ordinary charges payable for the use of the water as is authorized by the Local Government : claims to compensation in case of failure or stoppage of supply ;

(c) If the supply of water to any land irrigated from a canal be interrupted otherwise than in manner described in the last preceding clause the occupier or owner of such land may present a petition for compensation to the Collector for any loss arising from such interruption, and the Collector may award to the petitioner reasonable compensation for such loss : claims on account of interruption from other causes ;

(d) When the water of a canal is supplied for the irrigation of a single crop, the permission to use such water shall be held to continue only until that crop comes to maturity, and to apply only to the crop ; but if it be supplied for irrigating two or more crops to be raised on the same land within the year, such permission shall be held to continue for one year from the duration of supply ;

commencement of the irrigation, and to apply to such crops only as are matured within that year :

sale or sub-  
letting of  
right to use  
canal-water ;

(e) Unless with the permission of the Superintending Canal-officer, no person entitled to use the water of any canal, or any work, building or land appertaining to any canal, shall sell or sub-let or otherwise transfer his right to such use : Provided that the former part of this clause shall not apply to the use by a cultivating tenant of water supplied by the owner of a water-course for the irrigation of the land held by such tenant :

transfer with  
land of  
contracts, for  
water.

But all contracts made between Government and the owner or occupier of any immovable property, as to the supply of canal-water to such property, shall be transferable therewith, and shall be presumed to have been so transferred whenever a transfer of such property takes place :

No right  
acquired  
by user.

(f) No right to the use of the water of a canal shall be, or be deemed to have been, acquired under the Indian Limitation Act, 1871, Part IV,<sup>1</sup> X of 18 nor shall Government be bound to supply any person with water, except in accordance with the terms of a contract in writing.

## PART V.

### OF WATER-RATES.

Liability  
when person  
using un-  
authorizedly  
cannot be  
identified.

33. If water supplied through a water-course be used in an unauthorized manner, and if the person by whose act or neglect such use has occurred cannot be identified,

the person on whose land such water has flowed, if such land has derived benefit therefrom,

or, if such person cannot be identified, or if such land has not derived benefit therefrom, all the persons chargeable in respect of the water supplied through such water-course,

shall be liable, or jointly liable, as the case may be, to the charges made for such use.

Liability  
when water  
runs to waste.

34. If water supplied through a water-course be suffered to run to waste, and if, after enquiry by the Divisional Canal-officer, the person through whose act or neglect such water was suffered to run to waste cannot be discovered, all the persons chargeable in respect of the water supplied through such water-course shall be jointly liable for the charges made in respect of the water so wasted.

Charges re-  
coverable in  
addition to  
penalties.

35. All charges for the unauthorized use or for waste of water may be recovered in addition to any penalties incurred on account of such use or waste.

<sup>1</sup> See now the Indian Limitation Act, 1908 (IX of 1908), General Acts, Vol. VI.



All questions under section 33 or section 34 shall be decided by the Divisional Canal-officer, subject to an appeal to the head revenue-officer of the district, or such other appeal as may be provided under section 75.

Decision of questions under sections 33 and 34.

36. The rates to be charged for canal-water supplied for purposes of irrigation to the occupiers of land shall be determined by the rules to be made by the Local Government, and such occupiers as accept the water shall pay for it accordingly.

Charge on occupier for water how determined.

A rate so charged shall be called the "occupier's rate."

"Occupier's rate."

<sup>1</sup>[The rules hereinbefore referred to may prescribe and determine what persons or classes of persons are to be deemed to be occupiers for the purposes of this section, and may also determine the several liabilities, in respect of the payment of the occupier's rate, of tenants and of persons to whom tenants may have sublet their lands, or of proprietors and of persons to whom proprietors may have let the lands held by them in cultivating occupancy.]

37. In addition to the occupier's rate, a rate to be called the "owner's rate" may be imposed, according to rules to be made by the Local Government on the owners of canal-irrigated lands, in respect of the benefit which they derive from such irrigation.

"Owner's rate."

38. The owner's rate shall not exceed the sum which, under the rules for the time being in force for the assessment of land revenue, might be assessed on such land on account of the increase in the annual value or produce thereof caused by the canal-irrigation. And, for the purpose of this section only, land which is permanently settled or held free of revenue shall be considered as though it were temporarily settled and liable to payment of revenue.

Amount of owner's rate.

39. No owner's rate shall be chargeable either on the owner or occupier of land temporarily assessed to pay land-revenue at irrigation-rates, during the currency of such assessment.

Owner's rate when not chargeable.

40. If such land is occupied by the owner, or if it is occupied by a tenant whose rent is not liable to enhancement on the ground that the value of the produce of the land or the productive powers of the land has or have been increased by irrigation, such owner or tenant shall pay the owner's rate as well as the occupier's rate.

When occupier is to pay both owner's rate and occupier's rate.

41. In the case of a tenant with a right of occupancy, the Local Government shall have power to make rules for dividing the owner's rate between such tenant and his landlord, proportionately to the extent of the beneficial interest of each in the land.

Power to make rules for apportioning owner's rate.

<sup>1</sup> The third paragraph of s. 36 was added by s. 2 of the Northern India Canal and Drainage (Amendment) Act, 1899 (XVI of 1899), *infra*, p. 170.

When owner  
is to pay  
owner's rate.

42. If the owner of the land is not the occupier, but has power to enhance the rent of the occupier on the ground that the value of the produce or the productive powers of the land has or have been increased by irrigation ; or if, when the amount of rent was fixed, the land was irrigated from the canal,

the owner shall pay the owner's rate.

Effect of  
introduction  
of canal  
irrigation on  
landlord's  
right to  
enhance.

43. If a revision of settlement is a ground for entertaining a suit for the enhancement of rent, the introduction of canal-irrigation into any land shall have the same effect on the landlord's right to re-enhance the rent of a tenant with a right of occupancy of such land as if a revision of settlement had taken place, under which the revenue payable in respect of such land had been increased.

Water rate  
by whom  
payable when  
charged  
on land held  
by several  
owners.

44. Where a water-rate is charged on land held by several joint owners, it shall be payable by the manager or other person who receives the rents or profits of such land, and may be deducted by him from such rents or profits before division, or may be recovered by him from the persons liable to such rate in the manner customary in the recovery of other charges on such rents or profits.

#### *Recovery of Charges.<sup>1</sup>*

Certified  
dues  
recoverable  
as land  
revenue.

45. Any sum, lawfully due under this Part, and certified by the Divisional Canal-officer to be so due, which remains unpaid after the day on which it becomes due, shall be recoverable by the Collector from the person liable for the same as if it were an arrear of land-revenue.

Power to  
contract for  
collection of  
canal dues.

46. The Divisional Canal-officer or the Collector may enter into an agreement with any person for the collection and payment to the Government by such person of any sum payable under this Act by a third party.

When such agreement has been made, such person may recover such sum by suit as though it were a debt due to him, or an arrear of rent due to him on account of the land, work or building in respect of which such sum is payable, or for or in which the canal-water shall have been supplied or used.

If such person makes default in the payment of any sum collected by him under this section, such sum may be recovered from him by the Collector under section 45 ; and, if such sum or any part of it be still due by the said third party, the sum or part so due may be recovered in like manner by the Collector from such third party.

Lambardárs  
may be  
required  
to collect  
canal dues.

47. The Collector may require the lambardár, or person under engagement to pay the land-revenue of any estate, to collect and pay any sums payable under this Act by a third party, in respect of any land or water in such estate.

<sup>1</sup> As to the application of ss. 45—47 to the recovery of drainage rates, see s. 60, *infra*.

Such sums shall be recoverable by the Collector as if they were arrears of land-revenue due in respect of the defaulter's share in such estate ;

and, for the purpose of collecting such sums from the subordinate zamindars, raiyats<sup>1</sup> [tenants or sub-tenants], such lambardár or person may exercise the powers, and shall be subject to the rules, laid down in the law for the time being in force in respect to the collection by him of the rents of land or of shares of land revenue.

The Local Government shall provide—

- (a) for remunerating persons collecting sums under this section ; or
- (b) for indemnifying them against expenses properly incurred by them in such collection ; or
- (c) for both such purposes.

48. Nothing in sections 45, 46 or 47 applies to fines.

Fines  
excluded  
from sec-  
tions 45, 46,  
47.

## PART VI.

### OF CANAL-NAVIGATION.

49. Any vessel entering or navigating any canal contrary to the rules made in that behalf by the Local Government, or so as to cause danger to the canal or the other vessels therein, may be removed or detained, or both removed and detained, by the Divisional Canal-officer, or by any other person duly authorized in this behalf.

Detainer  
of vessels  
violating  
rules.

The owner of any vessel causing damage to a canal, or removed or detained under this section, shall be liable to pay to the Government such sum as the Divisional Canal-officer, with the approval of the Superintending Canal-officer, determines to be necessary to defray the expenses of repairing such damage, or of such removal or detention, as the case may be.

Liability  
of owners  
of vessels  
causing  
damage.

50. Any fine imposed under this Act upon the owner of any vessel, or the servant or agent of such owner or other person in charge of any vessel, for any offence in respect of the navigation of such vessel, may be recovered either in the manner prescribed by the Code of Criminal Procedure,<sup>2</sup> or, if the Magistrate imposing the fine so directs, as though it were a charge due in respect of such vessel.

Recovery of  
fines for  
offences in  
navigating  
canals.

51. If any charge due under the provisions of this Part in respect of any vessel is not paid on demand to the person authorized to collect the same, the Divisional Canal-officer may seize and detain such vessel and the furniture

Power to  
seize and  
detain  
vessel on

<sup>1</sup> These words in s. 47 were substituted for the words "or tenants" by s. 3 of the Northern India Canal and Drainage (Amendment) Act, 1899 (XVI of 1899) *infra*, p. 170.

<sup>2</sup> See now ss. 386, 387 and 389 of the "Code of Criminal Procedure, 1898 (Act V of 1898), General Acts, Vol. V.

failure  
to pay  
charges.

thereof, until the charge so due, together with all expenses and additional charges arising from such seizure and detention, is paid in full.

Power to  
seize cargo  
or goods  
if charges  
due thereon  
are not  
paid.

52. If any charge due under the provisions of this Part in respect of any cargo or goods carried in a Government vessel on a canal, or stored on or in lands or warehouses occupied for the purposes of a canal, is not paid on demand to the person authorized to collect the same, the Divisional Canal-officer may seize such cargo or goods and detain them until the charge so due, together with all expenses and additional charges arising from such seizure and detention, is paid in full.

Procedure  
for recovery  
of such  
charges after  
seizure.

53. Within a reasonable time after any seizure under section 51 or section 52, the said Canal-officer shall give notice to the owner or person in charge of the property seized that it, or such portion of it as may be necessary, will, on a day to be named in the notice, but not sooner than fifteen days from the date of the notice, be sold in satisfaction of the claim on account of which such property was seized, unless the claim be discharged before the day so named.

And, if such claim be not so discharged, the said Canal-officer may, on such day, sell the property seized or such part thereof as may be necessary to yield the amount due, together with the expenses of such seizure and sale :

Provided that no greater part of the furniture of any vessel or of any cargo or goods shall be so sold than shall, as nearly as may be, suffice to cover the amount due in respect of such vessel, cargo or goods.

The residue of such furniture, cargo or goods, and of the proceeds of the sale, shall be made over to the owner or person in charge of the property seized.

Procedure  
in respect  
of vessels  
abandoned  
and goods  
unclaimed.

54. If any vessel be found abandoned in a canal, or any cargo or goods carried in a Government vessel on a canal, or stored on or in lands or warehouses occupied for the purposes of a canal, be left unclaimed for a period of two months, the Divisional Canal-officer may take possession of the same.

The officer so taking possession may publish a notice that, if such vessel and its contents, or such cargo or goods, are not claimed previously to a day to be named in the notice, not sooner than thirty days from the date of such notice, he will sell the same ; and, if such vessel, contents, cargo or goods be not so claimed, he may, at any time after the day named in the notice, proceed to sell the same.

Disposal of  
proceeds of  
sale.

The said vessel and its contents, and the said cargo or goods, if unsold, or, if a sale has taken place, the proceeds of the sale, after paying all tolls, charges and expenses incurred by the Divisional Canal-officer on account of the taking possession and sale, shall be made over to the owner of the same

when his ownership is established to the satisfaction of the Divisional Canal-officer.

If the Divisional Canal-officer is doubtful to whom such property or proceeds should be made over, he may direct the property to be sold as aforesaid, and the proceeds to be paid into the district-treasury, there to be held until the right thereto be decided by a Court of competent jurisdiction.

## PART VII.

### OF DRAINAGE.

55. Whenever it appears to the Local Government that injury to any land of the public health or public convenience has arisen or may arise from the obstruction of any river, stream or drainage-channel, such Government may, by notification published in the official Gazette, prohibit, within limits to be defined in such notification, the formation of any obstruction, or may, within such limits, order the removal or other modification of such obstruction. Power to prohibit obstructions or order their removal.

Thereupon so much of the said river, stream or drainage-channel as is comprised within such limits shall be held to be a drainage-work as defined in section 3.

56. The Divisional Canal-officer, or other person authorised by the Local Government in that behalf, may, after such publication, issue an order to the person causing or having control over any such obstruction to remove or modify the same within a time to be fixed in the order. Power to remove obstructions after prohibition.

If, within the time so fixed, such person does not comply with the order, the said Canal-officer may himself remove or modify the obstruction; and, if the person to whom the order was issued does not, when called upon, pay the expenses involved in such removal or modification, such expenses shall be recoverable by the Collector from him or his representative in interest as an arrear of land-revenue.

57. Whenever it appears to the Local Government that any drainage-works are necessary for the improvement of any lands or for the proper cultivation or irrigation thereof, Preparation of schemes for works of improvement.

or that protection from floods or other accumulations of water, or from erosion by a river, is required for any lands,

the Local Government may cause a scheme for such drainage-works to be drawn up and published, together with an estimate of its cost and a statement of the proportion of such cost which the Government proposes to defray, and a schedule of the lands which it is proposed to make chargeable in respect of the scheme.

Powers of  
persons  
employed on  
such schemes.

58. The persons authorized by the Local Government to draw up such scheme may exercise all or any of the powers conferred on Canal-officers by section 14.

Rate on lands  
benefited by  
works.

59. An annual rate, in respect of such scheme, may be charged, according to rules to be made by the Local Government, on the owners of all lands which shall, in the manner prescribed by such rules, be determined to be so chargeable.

Such rate shall be fixed as nearly as possible so as not to exceed either of the following limits :—

- (1) six per cent. per annum on the first cost of the said works, adding thereto the estimated yearly cost of the maintenance and supervision of the same, and deducting therefrom the estimated income, if any, derived from the works, excluding the said rate :
- (2) in the case of agricultural land, the sum which, under the rules then in force for the assessment of land-revenue, might be assessed on such land on account of the increase of the annual value or produce thereof caused by the drainage-work.

Such rate may be varied from time to time, within such maximum, by the Local Government.

So far as any defect to be remedied is due to any canal, water-course, road or other work or obstruction, constructed or caused by the Local Government or by any person, a proportionate share of the cost of the drainage-works required for the remedy of the said defect shall be borne by such Government or such person, as the case may be.

Recovery of  
rate.

60. Any such drainage-rate may be collected and recovered in manner provided by sections 45, 46 and 47 for the collection and recovery of water-rates.

Disposal of  
claims to  
compensation.

61. Whenever, in pursuance of a notification made under section 55, any obstruction is removed or modified,

or whenever any drainage-work is carried out under section 57,

all claims for compensation on account of any loss consequent on the removal or modification of the said obstruction or the construction of such work may be made before the Collector, and he shall deal with the same in the manner provided in section 10.

Limitation of  
such claims.

62. No such claim shall be entertained after the expiration of one year from the occurrence of the loss complained of, unless the Collector is satisfied that the claimant had sufficient cause for not making the claim within such period.

PART VIII.<sup>1</sup>

## OF OBTAINING LABOUR FOR CANALS AND DRAINAGE-WORKS.

63. For the purposes referred to in this Part, the word "labourer" includes persons who exercise any handicraft specified in rules to be made in that behalf by the Local Government. Definition of "labourer."

64. In any district in which a canal or drainage-work is constructed, maintained or projected by Government, the Local Government may, if it thinks fit, direct the Collector— Power to prescribe number of labourers to be supplied by persons benefited by canal.

(a) to ascertain the proprietors, sub-proprietors, or farmers, whose villages or estates are or will be, in the judgment of the Collector, benefited by such canal or drainage-work, and

(b) to set down in a list, having due regard to the circumstances of the district and of the several proprietors, sub-proprietors or farmers, the number of labourers which shall be furnished by any of the said persons, jointly or severally, from any such village or estate, for employment on any such canal or drainage-work when required as hereinafter provided.

The Collector may, from time to time, add to or alter such list or any part thereof.

65. Whenever it appears to a Divisional Canal-officer duly authorized by the Local Government that, unless some work is immediately executed, such serious damage will happen to any canal or drainage-work as to cause sudden and extensive public injury, Procedure for obtaining labour for works urgently required.

and that the labourers necessary for the proper execution thereof cannot be obtained in the ordinary manner within the time that can be allowed for the execution of such work so as to prevent such injury,

the said officer may require any person named in such list to furnish as many labourers (not exceeding the number which, according to the said list, he is liable to supply) as to the said officer seem necessary for the immediate execution of such work.

Every requisition so made shall be in writing, and shall state—

- (a) the nature and locality of the work to be done,
- (b) the number of labourers to be supplied by the person upon whom the requisition is made, and
- (c) the approximate time for which and the day on which the labourers will be required ;

and a copy thereof shall be immediately sent to the Superintending Canal-officer for the information of the Local Government.

<sup>1</sup> As to application of Part VIII, see last para. of s. 65, *infra*.

The Local Government shall fix, and may from time to time alter, the rates to be paid to any such labourers: Provided that such rates shall exceed the highest rates for the time being paid in the neighbourhood for similar work. In the case of every such labourer, the payment shall continue for the whole period during which he is, in consequence of the provisions of this Part, prevented from following his ordinary occupation.

The Local Government may, <sup>1</sup>\* \* \* \* direct that the provisions of this Part shall apply, either permanently or temporarily (as the case may be), to any district or part of a district<sup>2</sup> for the purpose of effecting necessary annual silt-clearances, or to prevent the proper operation of a canal or drainage-work being stopped or so much interfered with as to stop the established course of irrigation or drainage.

Liability of  
labourers  
under requi-  
sition.

66. When any requisition has been made on any person named in the said list, every labourer ordinarily resident within the village or estate of such person shall be liable to supply, and to continue to supply, his labour, for the purposes aforesaid.

## PART IX.

### OF JURISDICTION.

Jurisdiction  
under this  
Act of Civil  
Courts.

67. Except where herein otherwise provided, all claims against Government in respect of anything done under this Act may be tried by the Civil Courts; but no such Court shall in any case pass an order as to the supply of canal-water to any crop sown or growing at the time of such order.

Settlement of  
differences as  
to mutual  
rights and  
liabilities  
of persons  
interested in  
water-course.

68. Whenever a difference arises between two or more persons in regard to their mutual rights or liabilities in respect of the use, construction or maintenance of a water-course, any such person may apply in writing to the Divisional Canal-officer stating the matter in dispute. Such officer shall thereupon give notice to the other persons interested that, on a day to be named in such notice, he will proceed to inquire into the said matter. And, after such inquiry, he shall pass his order thereon, unless he transfers (as he is hereby empowered to do) the matter to the Collector, who shall thereupon inquire into and pass his order on the said matter.

Such order shall be final as to the use or distribution of water for any crop sown or growing at the time when such order is made, and shall thereafter remain in force until set aside by the decree of a Civil Court.

<sup>1</sup> The words "with the previous sanction of the Governor-General in Council" were omitted by the Schedule to the Decentralization Act, 1914 (IV of 1914).

<sup>2</sup> Part VIII has not been applied to any place in the Central Provinces.



69. Any officer empowered under this Act to conduct any inquiry may exercise all such powers connected with the summoning and examining of witnesses as are conferred on Civil Courts by the Code of Civil Procedure;<sup>1</sup> and every such inquiry shall be deemed a judicial proceeding.

## PART X.

### OF OFFENCES AND PENALTIES.

70. Whoever, without proper authority and voluntarily, does any of the acts following, that is to say :—

- (1) damages, alters, enlarges or obstructs any canal or drainage-work ;
- (2) interferes with, increases or diminishes the supply of water in, or the flow of water from, through, over or under, any canal or drainage-work ;
- (3) interferes with or alters the flow of water in any river or stream, so as to endanger, damage or render less useful any canal or drainage-work ;
- (4) being responsible for the maintenance of a water-course, or using a water-course, neglects to take proper precautions for the prevention of waste of the water thereof, or interferes with the authorized distribution of the water therefrom, or uses such water in an unauthorized manner ;
- (5) corrupts or fouls the water of any canal so as to render it less fit for the purposes for which it is ordinarily used ;
- (6) causes any vessel to enter or navigate any canal contrary to the rules for the time being prescribed by the Local Government for entering or navigating such canal ;
- (7) while navigating on any canal, neglects to take proper precautions for the safety of the canal and of vessels thereon ;
- (8) being liable to furnish labourers under Part VIII of this Act, fails, without reasonable cause, to supply or to assist in supplying the labourers required of him ;
- (9) being a labourer liable to supply his labour under Part VIII of this Act, neglects, without reasonable cause, so to supply, and to continue to supply, his labour ;
- (10) destroys or moves any level-mark or water-gauge fixed by the authority of a public servant ;
- (11) passes, or causes animals or vehicles to pass, on or across any of the works, banks or channels of a canal or drainage-work contrary to

<sup>1</sup> See now the Code of Civil Procedure, 1908 (Act V of 1909), General Acts, Vol. VII.

rules made under this Act, after he has been desired to desist therefrom ;

(12) violates any rule made under this Act, for breach whereof a penalty may be incurred,

Penalty.

shall be liable, on conviction before a Magistrate of such class as the Local Government<sup>1</sup> directs in this behalf, to a fine not exceeding fifty rupees, or to imprisonment not exceeding one month, or to both.

Saving of prosecution under other laws.

71. Nothing herein contained shall prevent any person from being prosecuted under any other law for any offence punishable under this Act :

Provided that no person shall be punished twice for the same offence.

Compensation to person injured.

72. Whenever any person is fined for an offence under this Act, the Magistrate may direct that the whole or any part of such fine may be paid by way of compensation to the person injured by such offence.

Power to arrest without warrant.

73. Any person in charge of or employed upon any canal or drainage-work may remove from the lands or buildings belonging thereto, or may take into custody without a warrant and take forthwith before a Magistrate or to the nearest police-station, to be dealt with according to law, any person who, within his view, commits any of the following offences :—

(1) wilfully damages or obstructs any canal or drainage-work ;

(2) without proper authority interferes with the supply or flow of water in or from any canal or drainage-work, or in any river or stream, so as to endanger, damage or render less useful any canal or drainage-work.

Definition of "canal."

74. In this Part the word "canal" shall (unless there be something repugnant in the subject or context) be deemed to include also all lands occupied by Government for the purposes of canals, and all buildings, machinery, fences, gates and other erections, trees, crops, plantations or other produce, occupied by or belonging to Government, upon such lands.

## PART XI.

### OF SUBSIDIARY RULES.

Power to make, alter and cancel rules.

75. The Local Government may, from time to time, <sup>2</sup> [subject to the control] of the Governor General in Council, make rules to regulate the following matters :—

(1) the proceedings of any officer who, under any provision of this Act, is required or empowered to take action in any matter ;

(2) the cases in which, and the officers to whom, and the conditions subject to which orders and decisions given under any provision

<sup>1</sup> For orders under s. 70 empowering all Magistrates other than Magistrates of the third class to try offences under that section, *see* the Central Provinces Local Rules and Orders.

<sup>2</sup> These words in s. 75 were substituted for the words "with the previous sanction" by the Schedule to the Decentralisation Act, 1914 (IV of 1914).

of this Act, and not expressly provided for as regards appeal, shall be appealable ;

(3) the persons by whom, [ and ]<sup>1</sup> the time, place or manner at or in which, anything for the doing of which provision is made in this Act, shall be done ;

(4) the amount of any charge made under this Act ;

(5) and generally to carry out the provisions of this Act.

The Local Government may from time to time,<sup>2</sup> [ subject to the like control ] alter or cancel any rules so made.

Such rules, alterations and cancelments shall be published in the local official Gazette, and shall thereupon have the force of law. Publication of rules.

## SCHEDULE.

*(Enactments repealed.)*

[ *Repealed by Act XII of 1873.* ]

## THE CENTRAL PROVINCES LAWS ACT, 1875 (XX OF 1875).

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### PREAMBLE.

### SECTIONS.

1. Short title.  
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2. Repeal of enactments and rules.  
*Proviso [ Repealed ]*
3. Certain enactments to be deemed to be in force.
4. Confirmation of existing Acts.
5. Rule of decision in cases of certain classes.
6. Rule in cases not expressly provided for.
7. Articles exempt from attachment.
8. Power to make subsidiary rules.
9. Penalty for breach of rules.
10. Publication of rules.  
Force of rules.

<sup>1</sup> The word "and" was inserted by the Amending Act, 1891 (XII of 1891), General Act, Vol. IV.

<sup>2</sup> These words in s. 75 were substituted for the words "with the like sanction" by the Schedule to the Decentralization Act, 1914 (IV of 1914).

11. Local repeal, in part, of Code of Civil Procedure.
12. Sections substituted in same Code.

### SCHEDULE.

ACT No. XX OF 1875.<sup>1</sup>

## THE CENTRAL PROVINCES LAWS ACT, 1875.

[9th December, 1875.]

An Act to declare and amend the law in force in the Central Provinces.

Preamble.	WHEREAS it is expedient to declare and amend certain portions of the law in force in the Central Provinces ; It is hereby enacted as follows :—
Short title.	1. This Act may be called the Central Provinces Laws Act, 1875 :
Local extent.	It extends to the territories now under the administration of the Chief Commissioner of the Central Provinces ;
Commence- ment.	And it shall come into force on the passing thereof.
Repeal of enactments and rules.	2. On and from the date on which this Act comes into force the following shall be repealed, that is to say,—
	(a) all Bengal Regulations except the Regulations or parts of Regulations hereinafter declared to be in force ;
	(b) all Acts of the Governor General in Council (except the Acts mentioned in the schedule hereto annexed) which do not expressly or by necessary implication extend to the said territories or any part thereof, and have not been extended thereto in exercise of a power conferred by an Act of the Governor General in Council ;
	(c) all rules, regulations and enactments not being Statutes, Bengal Regulations, Acts of the Governor General in Council, or rules or regulations made in exercise of a power conferred by a Statute, Bengal Regulation or Act of the Governor General in Council :
	[Proviso as to law relating to land-revenue and Courts of Wards.] Rep. Amending Act, 1891 (XII of 1891).
Certain enact- ments to be deemed to be in force.	3. On and from the said date the enactments specified in the schedule hereto annexed shall be deemed to be in force throughout the said territories to the extent mentioned in the third column of the said schedule.

<sup>1</sup> For Statement of Objects and Reasons, see *Gazette of India*, 1875, Pt. V, p. 159, and for Proceedings in Council, see *ibid.*, Extra Supplement, dated 14th August, 1875, p. 60, *ibid.*, dated 21st August, 1875, p. 6, and *ibid.*, Supplement, p. 981.

But the powers and duties incident to the operation of the same enactments, so far as such powers and duties are referred to in the fourth column of the said schedule, shall be exercised and performed by the authorities mentioned in that column.

Nothing in this section shall be deemed to affect the operation of any enactment not mentioned in the said schedule.

4. Every Act of the Governor General in Council which extends, or can by notification be extended, to the territories which were under the administration of the said Chief Commissioner at the time of the passing thereof, shall extend, or may by notification be extended, as the case may be, to all the territories now under the administration of the said Chief Commissioner.

Confirmation of existing Acts.

5. In questions regarding inheritance, special property of females, betrothal, marriage, dower, adoption, guardianship, minority, bastardy, family, relations, wills, legacies, gifts, partitions or any religious usage or institution, the rule of decision shall be the Muhammadan law in cases where the parties are Muhammadans, and the Hindu law in cases where the parties are Hindus, except in so far as such law has been by legislative enactment altered or abolished, or is opposed to the provisions of this Act :

Rule of decision in cases of certain classes.

Provided that when among any class or body of persons or among the members of any family any custom prevails which is inconsistent with the law applicable between such persons under this section, and which, if not inconsistent with such law, would have been given effect to as legally binding, such custom shall, notwithstanding anything herein contained, be given effect to.

6. In cases not provided for by section 5, or by any other law for the time being in force, the Courts shall act according to justice, equity and good conscience.

Rule in cases not expressly provided for.

7. Implements of husbandry and cattle for agricultural purposes and implements of trade are exempted from attachment and sale in execution of decrees of the Civil Courts.

Articles exempt from attachment.

8. The said Chief Commissioner may from time to time make rules<sup>1</sup> consistent with this Act as to the following matters : --

Power to make subsidiary rules.

- (a) the maintenance of watch and ward<sup>1</sup> and the establishment of proper system of conservancy and sanitation at fairs and other large public assemblies ;
- (b) the imposition of taxes for the purposes mentioned in clause (a) of this section on persons holding or joining any of the assemblies therein referred to ;

<sup>1</sup> As to such rules see Central Provinces Local Rules and Orders.

- (c) the custody of judicial records, civil and criminal ; \* \* \* 1  
 (d) the appointment, duties, punishment, suspension and dismissal of all ministerial officers.

Penalty for  
breach of  
rules.

9. The Chief Commissioner may, in making any rule under this Act, attach to the breach of it, in addition to any other consequences that would ensue from such breach, a punishment, on conviction before a Magistrate, not exceeding one month's imprisonment, or two hundred rupees fine, or both.

Publication  
of rules.  
Force of  
rules.

10. All rules made under this Act shall, when sanctioned by the Governor General in Council, be published in the Central Provinces Gazette and shall thereupon have the force of law.

Local repeal,  
in part, of  
Code of Civil  
Procedure.  
Sections sub-  
stituted in  
same Code.  
Note of  
evidence to be  
taken.

<sup>2</sup> [11. Sections 184, 185 and 189 of the Code of Civil Procedure<sup>3</sup> are hereby repealed.]

<sup>2</sup> [12. For sections 182, 190 and 191 of the same Code<sup>3</sup> the following shall be substituted (namely) :—

"182. A note of the essential points of the evidence of each witness shall be made at the time, and in the course of oral examination, by the Judge, in his own language, or in English if he is sufficiently acquainted with that language, and such notes shall be filed with, and form part of, the record of the case.

Judge unable  
to make note  
to record  
reason of his  
inability.

"190. If the Judge be prevented from making a note as above required, he shall record the reason of his inability to do so, and shall cause such note to be made in writing from his dictation in open Court, and shall sign the same, and such note shall form part of the record.

Power to use  
note made by  
Judge dying  
or removed  
before conclu-  
sion of suit.

"191. When the Judge making a note of the evidence, or causing one to be made as above required, dies or is removed from the Court before the conclusion of the suit, his successor may, if he thinks fit, deal with such note as if he himself had made it or caused it to be made." ]

<sup>1</sup> The words "and the destruction from time to time of such of the said records as it may be deemed unnecessary to keep" were repealed by the Destruction of Records Act, 1879 (III of 1879), which has been repealed by the Destruction of Records Act, 1917 (V of 1917).

<sup>2</sup> Ss. 11 and 12 were inserted by the Central Provinces Laws Act, 1879 (II of 1879), s. 2, *infra*, p. 76.

<sup>3</sup> For the reference to the Code of Civil Procedure in ss. 11 and 12, read now the Code of Civil Procedure, 1908 (Act V of 1908), *see* s. 158 of that Code, General Act, Vol. VI.

## SCHEDULE.

(See section 3.)

A.—BENGAL REGULATIONS.<sup>1</sup>

Number and year of Regulation.	Subject.	Extent of operation.	Powers or duties how to be exercised or performed.
1	2	3	4
*	*	*	*
V of 1799 <sup>2</sup>	Estates of Intestates.	Sections 4, 5 and 6	The functions of the Court of "Sadr Dī-wānī Adālat" shall be performed by the Judicial Commissioner.
X of 1804 <sup>3</sup>	Punishment of State offences by Courts-Martial.	So much as has not been repealed	
XI of 1806 <sup>3</sup>	Passage of Troops	Sections 2 to 6 and section 8, with the exception of such part as authorizes Collectors and their Native officers, or Magistrates and their Police-officers, to give their official aid in procuring coolies for the purpose of facilitating the march of troops	The powers of the "Governor General in Council" <sup>4</sup> and of the "Board of Revenue" shall be exercised by the Chief Commissioner.

<sup>1</sup> So much of Act XX of 1875 as relates to the following Bengal Regulations was repealed by the General Act; of the Governor General noted against each:—

Bon. Reg. I of 1798: } Transfer of Property Act, 1882 (IV of 1882), General Acts, XVII of 1806: } Vol. III.

XX of 1810: Cantonments Act, 1889 (XIII of 1889).

V of 1817: Indian Treasure Trove Act, 1878 (VI of 1878), General Acts, Vol. II.

XX of 1825: Code of Criminal Procedure, 1882 (Act X of 1882).

Bon. Reg. VI of 1819 was repealed in the Central Provinces by the Northern India Ferries Act, 1878 (XVII of 1878) *infra*, and later generally, by the Amending Act, 1891 (XII of 1891).

<sup>2</sup> *Supra*, pp. 1 and 2.

<sup>3</sup> *Supra*, p. 4. The words in s. 8 of the Regulation excepted from operation in the Central Provinces by this Act (*see* column 3 above), have now been repealed by the Amending Act, 1891 (XII of 1891), General Acts, Vol. IV.

<sup>4</sup> The Regulation has since been amended so as to substitute the words "Local Government" for "Governor General in Council," *see* the Amending Act, 1897 (V of 1897), General Acts, Vol. IV.

SCHEDULE—*continued*.A.—BENGAL REGULATIONS—*continued*.

Number and year of Regulation.	Subject.	Extent of operation.	Powers or duties how to be exercised or performed.
1	2	3	4
XI of 1806— <i>contd.</i>		or the progress of travellers, and with the exception, in section 8, of the words and figures " <i>under the rules prescribed by Regulations V, 1804.</i> "	
*	*	*	* <sup>1</sup>
XI of 1812 <sup>2</sup> . .	Foreign Immigrants.	So much as has not been repealed.	The powers of the "Nizámat Adálat" shall be exercised by the Judicial Commissioner.
*	*	*	* <sup>1</sup>
III of 1818 <sup>2</sup> . .	State Prisoners . .	So much as has not been repealed.	.
*	*	*	* <sup>1</sup>
VI of 1825 <sup>2</sup> . .	Supply of troops on the march.	The whole . . .	The powers of the "Board of Revenue" shall be exercised by the Chief Commissioner.
XI of 1825 <sup>2</sup> . .	Alluvion and Diluvion	The whole . . .	
*	*	*	* <sup>1</sup>
V of 1827 <sup>2</sup> . .	Administration of landed property.	So much as has not been repealed, except the words and figures "and clauses five and six, section XVI, Regulation III, 1803."	The powers of the "Board of Revenue" shall be exercised by the Chief Commissioner.

<sup>1</sup> See first note on preceding page.<sup>2</sup> *Supra*.



SCHEDULE—*concluded*.

## B—ACTS OF THE GOVERNOR GENERAL IN COUNCIL.

Number and year of Act.	Subject.	Extent of operation.
1	2	3
VIII of 1851 <sup>1</sup> . .	Tolls on Roads and Bridges .	The whole Act, except section 1, and the schedule.
* . . . . .	* . . . . .	* <sup>2</sup> . . . . .
XIII of 1857 <sup>3</sup> . .	Opium . . . . .	Sections 21, 22, 23, 25, 26, 27, 28, 29.
* . . . . .	* . . . . .	* <sup>4</sup> . . . . .
XV of 1864 <sup>5</sup> . .	Tolls . . . . .	The whole Act.

## THE NORTHERN INDIA FERRIES ACT, 1878 (XVII OF 1878).

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#### PREAMBLE.

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#### SECTIONS.

1. Short title.  
Local extent.  
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2. Repeal.
3. Interpretation-clause.

<sup>1</sup> General Acts, Vol. I.

<sup>2</sup> The entry relating to Act XVIII of 1853 (sale of spirits in Cantonments) was repealed by the Amending Act, 1891 (XII of 1891). The Act itself was previously repealed by the Cantonment Act, 1889 (XIII of 1889).

<sup>3</sup> *Supra*, p. 23.

<sup>4</sup> The entry relating to the Minors Act, 1858 (XL of 1858), was repealed by the Guardian and Wards Act, 1890 (VIII of 1890), General Acts, Vol. IV.

<sup>5</sup> General Acts, Vol. I.

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  10. Power to cancel lease.
  11. Surrender of lease.
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  16. Table of tolls.  
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  17. Tolls, rents, compensation and fines how disposed of.
  18. Compounding for tolls.
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  20. Tolls.
- 

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- 

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32. Power to take possession of boats, etc., on surrender or cancellation of lease.
33. Similar power in cases of emergency.

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- 34. Jurisdiction of Civil Courts barred.
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ACT No. XVII OF 1878.<sup>1</sup>

## THE NORTHERN INDIA FERRIES ACT, 1878.

[9th November 1875.]

## An Act to Regulate Ferries in Northern India.

WHEREAS it is expedient to regulate ferries in the Punjab, the North-Western Provinces, Oudh,<sup>2</sup> the Central Provinces, Assam and Ajmer and Merwára; It is hereby enacted as follows :—

## I.—PRELIMINARY.

1. This Act may be called the Northern India Ferries Act, 1878.

Short title.

It extends only to the territories respectively administered by the Lieutenant-Governors of the Punjab and the North-Western Provinces and the Chief Commissioners of Oudh,<sup>3</sup> the Central Provinces, Assam and Ajmer and Merwara.

Local extent.

It shall come into force<sup>4</sup> in each of the said territories on such date as the Local Government may, by notification in the official Gazette, fix in this behalf.

Commencement.

2. On and from the date on which it comes into force in the territories respectively administered by the Lieutenant-Governor of the<sup>5</sup> North-Western Provinces and the said Chief Commissioners, Bengal Regulation VI of 1819 shall be repealed therein, but all determinations, declarations, orders and rules made, engagements entered into, and securities taken, under the Regulation, and then in force, shall be deemed to be respectively made, entered into and taken under this Act.

Repeal.

3. In this Act the word "ferry" includes also a bridge of boats, pontoons or rafts, a swing-bridge, a flying-bridge and a temporary bridge, and the approaches to and landing-places of, a ferry.

Interpretation-clause.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1878, Pt. V, p. 135; for Report of the Select Committee, see *ibid.*, p. 210; for Proceedings in Council, see *ibid.*, Supplement pp. 286, 325, 1,104 and 1,194.

<sup>2</sup> Read now the United Provinces of Agra and Oudh, see the United Provinces (Designation) Act, 1902 (VII of 1902), General Acts, Vol. V.

<sup>3</sup> Read now the Lieutenant-Governor of the United Provinces of Agra and Oudh, see the United Provinces (Designation) Act, 1902 (VII of 1902), General Acts, Vol. V.

<sup>4</sup> The Act was brought into force in the Central Provinces on 1st April, 1879, see Central Provinces Local Rules and Orders.

## II.—PUBLIC FERRIES.

Power to declare, establish, define and discontinue public ferries.

## 4. The Local Government may from time to time—

- (a) declare what ferries shall be deemed public ferries,<sup>1</sup> and the respective districts in which, for the purposes of this Act, they shall be deemed to be situate ;
- (b) take possession of a private ferry and declare it to be a public ferry ;
- (c) establish new public ferries where, in its opinion, they are needed ;
- (d) define the limits of any public ferry ;
- (e) change the course of any public ferry ; and
- (f) discontinue any public ferry which it deems unnecessary.

Every such declaration, establishment, definition, change or discontinuance shall be made by notification in the official Gazette :

Provided that, when a river lies between two Provinces, the powers conferred by this section shall, in respect of such river, be exercised by the Governor-General in Council, by notification in the Gazette of India, and not otherwise :

Provided also that when any alteration in the course or in the limits of a public ferry is rendered necessary by changes in the river, such alteration may be made, by an order under his hand, by the Commissioner of the division in which such ferry is situate, or by such other officer as the Local Government may, from time to time, appoint by name or in virtue of his office in this behalf.

Claims for compensation.

5. Claims for compensation for any loss sustained by any person in consequence of a private ferry being taken possession of under section 4, shall be enquired into by the Magistrate of the district in which such ferry is situate, or such officer as he appoints in this behalf and submitted for the consideration and orders of the Local Government.

Superintendence of public ferries.

6. The immediate superintendence of every public ferry shall, except as provided in section 7<sup>2</sup> [and section 7A], be vested in the Magistrate of the district in which such ferry is situate, or in such other officer as the Local Government may, from time to time, appoint by name or in virtue of his office in this behalf ;

and such Magistrate or officer shall, except when the tolls at such ferry are leased, make all necessary arrangements for the supply of boats for such ferry, and for the collection of the authorized tolls leviable thereat.

<sup>1</sup> For Public ferries declared in the Central Provinces under s. 4, see Central Provinces Gazette, 1879, Pt. 1A., pp. 202, 209, 210, 223, 224, 246, 258, 280 and 291 *ibid.*, 1881, Pt. II, p. 79 *ibid.*, 1882, Pt. II, p. 51, *ibid.*, 1883, Pt. II, p. 46, *ibid.*, 1885, Pt. II, p. 112, *ibid.*, 1888, Pt. II, p. 38, *ibid.*, 1889, Pt. II, p. 46, *ibid.*, 1890, Pt. II, pp. 273 and 301 ; and *ibid.*, 1899, Pt. III, pp. 119 and 261.

<sup>2</sup> The words, figure and letter "and section 7A" were inserted in s. 6 by s. 44 of the Central Provinces Local Self-government Act, 1883 (1 of 1883), *infra*, p. 130.

7. The Local Government may direct that any public ferry situate within the limits of a town be managed by the officer or public body charged with the superintendence of the municipal arrangements of such town ;  
 and may further direct that all or any part of the proceeds from such ferry be paid into the municipal fund of such town ;

Management may be vested in municipality ; and proceeds paid into municipal fund.

and thereupon such ferry shall be managed, and such proceeds or part thereof shall be paid, accordingly.

<sup>1</sup> [7A. The Chief Commissioner of the Central Provinces may direct that any public ferry, wholly or partly within the area subject to the authority of a District Council or Local Board in any district in those Provinces be managed by that Council or Board, and may further direct that all or any part of the proceeds from such ferry be paid into the district fund of that district ;

In the Central Provinces management may be vested in District Council or Local Boards ; and proceeds paid into district fund.

and thereupon such ferry shall be managed and such proceeds or part thereof shall be paid accordingly.]

<sup>2</sup>8. [The tolls of any public ferry may, from time to time, be let by public auction for a term not exceeding five years, with the approval of the Commissioner or by public auction, or otherwise than by public auction for any term with the previous sanction of the Local Government.

Letting ferry-tolls by auction.

The lessee shall conform to the rules made under this Act for the management and control of the ferry, and may be called upon by the officer in whom the immediate superintendence of the ferry is vested, or, if the ferry is managed by a municipal or other public body under section 7 or section 7A, then by that body, to give such security for his good conduct and for the punctual payment of the rent as the officer or body, as the case may be, thinks fit.

When the tolls are put up to public auction, the said officer or body, as the case may be, or the officer conducting the sale on his or its behalf may, for reasons recorded in writing, refuse to accept the offer of the highest bidder, and may accept any other bid, or may withdraw the tolls from auction.]

<sup>1</sup> S. 7A was inserted by s. 43 of the Central Provinces Local Self-Government Act, 1883 (I of 1883), *infra*, p. 130.

<sup>2</sup> Section 8 was substituted by s. I of the Northern India Ferries Act Amendment Act, 1886 (III of 1886), *infra*, p. 130. The original section was as follows :—

“ 8. The tolls of any public ferry may, from time to time, be let by public auction for such term not exceeding five years as the Magistrate of the district, subject to the approval of the Commissioner of the division in which such ferry is situate, may deem expedient.

The lessee shall conform to the rules made under this Act for the management and control of such ferry, and may be called upon by the officer conducting the auction to give such security for his good conduct and for the punctual payment of the rent as such officer thinks fit.

Such officer may, for sufficient reason recorded in writing under his hand, refuse to accept the offer of the highest bidder and may accept any other bid, or may withdraw the tolls from auction.”

Recovery of  
arrears from  
lessee.

9. All arrears due by the lessee of the tolls of a public ferry, on account of his lease may be recovered from the lessee or his surety (if any) by the Magistrate of the district in which such ferry is situate as if they were arrears of land-revenue.

Power to can-  
cel lease.

10. The Local Government may cancel the lease of the tolls of any public ferry on the expiration of six months' notice in writing to the lessee of its intention to cancel such lease.

When any lease is cancelled under this section, the Magistrate of the district in which such ferry is situate shall pay to the lessee such compensation as such Magistrate may, with the previous sanction of the Local Government, award.

Surrender of  
lease.

11. The lessee of the tolls of a public ferry may surrender his lease on the expiration of one month's notice in writing to the Local Government of his intention to surrender such lease, and on payment to the Magistrate of the district in which such ferry is situate of such compensation as such Magistrate, subject to the approval of the Commissioner, may in each case direct.

Power to  
make rules.

12. Subject to the control of the Local Government, the Commissioner of a division, or such other officer as the Local Government may, from time to time, appoint in this behalf, by name or in virtue of his office, may, from time to time, make rules <sup>1</sup> consistent with this Act—

(a) for the control and the management of all public ferries within such division and for regulating the traffic at such ferries;

<sup>2</sup> [(b) for regulating the time and manner at and in which and the terms on which, the tolls of such ferries may be let by auction, and prescribing the persons by whom auctions may be conducted];

(c) for compensating persons who have compounded for tolls payable for the use of any such ferry when such ferry has been discontinued before the expiration of the period compounded for; and

(d) generally to carry out the purposes of this Act;

and, when the tolls of a ferry have been let under section 8, such Commissioner or other officer may, from time to time (subject as aforesaid), make additional rules consistent with this Act—

(e) for collecting the rents payable for the tolls of such ferries;

(f) in cases in which the communication is to be established by means of a bridge of boats, pontoons or rafts, or a swing-bridge, flying-

<sup>1</sup> For rules made under the powers conferred by s. 12 in the Central Provinces, see Central Provinces Local Rules and Orders.

<sup>2</sup> Cl. (b) was substituted by s. (2) of the Northern India Ferries Act Amendment Act, 1886 (III of 1886), *infra*, p. 130. The original clause was as follows:—

“(b) for regulating the time and manner at and in which, the terms on which, and the person by whom, the tolls of such ferries may be let by auction.”

bridge or temporary bridge, for regulating the time and manner at and in which such bridge shall be constructed and maintained and opened for the passage of vessels and rafts through the same and

- (c) in cases in which the traffic is conveyed in boats, for regulating—
- (1) the number and kinds of such boats and their dimensions and equipment;
  - (2) the number of the crew to be kept by the lessee for each boat;
  - (3) the maintenance of such boats continually in good condition;
  - (4) the hours during which, and the intervals within which, the lessee shall be bound to ply; and
  - (5) the number of passengers, animals and vehicles, and the bulk and weight of other things, that may be carried in each kind of boat at one trip.

The lessee shall make such returns of traffic as the Commissioner or other officer as aforesaid may from time to time require.

13. <sup>1</sup>[Except with the sanction of the Magistrate of the district or of such other officer as the Local Government may, from time to time, appoint in this behalf, by name or in virtue of his office, no person shall establish, maintain or work a ferry to or from any point within a distance of two miles from the limits of a public ferry] :

Private ferry not to ply within two miles of public ferry without sanction.

Provided that, in the case of any specified public ferry, the Local Government may, by notification in the official Gazette, reduce or increase the said distance of two miles to such extent as it thinks fit :

Provided also that nothing hereinbefore contained shall prevent persons plying between two places, one of which is without, and one within, the said limits, when the distance between such two places is not less than three miles, or apply to boats <sup>2</sup>[which do not ply for hire or] which the Local Government expressly exempts from the operation of this section.

14. Whoever uses the approach to, or landing-place of, a public ferry is liable to pay the toll payable for crossing such ferry.

Person using approaches, etc., liable to pay. Tolls.

<sup>3</sup>15. Tolls, according to such rates as are, from time to time, fixed by the Local Government, shall be levied on all persons, animals, vehicles and other

<sup>1</sup> This paragraph in s. 13 was substituted by s. 2 of the Northern India Ferries Act Amendment Act, 1886 (111 of 1886), *infra*, p. 130. The original paragraph ran as follows :—

“No person shall, except with the sanction of the officer charged with the superintendence of a public ferry, keep a ferry-boat for the purpose of plying for hire to or from any point within a distance of two miles from the limits of such public ferry.”

<sup>2</sup> These words in s. 13 were inserted by *ibid*.

<sup>3</sup> So far as s. 15 exempts from the payment of tolls, persons, animals, vehicles or other things which are exempted by s. 3 of the Indian Tolls (Army) Act, 1901 (11 of 1901), it is repealed by s. 8 of that Act, General Acts, Vol. V.

things crossing any river by a public ferry and not employed or transmitted on the public service :

Provided that the Local Government may, from time to time, declare that any persons, animals, vehicles or other things shall be exempt from payment of such tolls.

Where the tolls of a ferry have been let under section 8, any such declaration, if made after the date of the <sup>1</sup>[lease], shall entitle the lessee to such abatement of the rent payable in respect of the tolls as may be fixed by the Commissioner of the division or such other officer as the Local Government may, from time to time, appoint in this behalf by name or in virtue of his office.

Table of  
tolls.

16. The lessee or other person authorized to collect the tolls of any public ferry shall affix a table of such tolls, legibly written or printed in the vernacular language, and also, if the Commissioner of the division so directs, in English, in some conspicuous place near the ferry,

and shall be bound to produce, on demand, a list of the tolls, signed by the Magistrate of the district or such other officer as he appoints in this behalf.

Tolls, rents,  
compensation  
and fines how  
disposed of.

17. Except as provided by section 7 <sup>2</sup>[and section 7A], all tolls, rents and compensation received by or on behalf of Government, and all fines levied, under this Act shall be disposed of as follows,<sup>3</sup> that is to say :—

(a) *in the territories administered by the Lieutenant-Governor of the North-Western Provinces,<sup>4</sup> the residue of such tolls, rents, compensation and fines after defraying thereout all charges incurred in carrying out this Act in those territories, shall be credited to the fund constituted for those territories by the North-Western Provinces Local Rates Act, 1878 ;<sup>5</sup>*

III of 18

(b) *in the territories administered by the Chief <sup>1</sup>Commissioner of Oudh, the residue as aforesaid shall be credited to the fund constituted for those IV of 18<sup>2</sup> territories by the Oudh Local Rates Act, 1878 ;<sup>5</sup>*

(c) *in the territories respectively administered by the Lieutenant-Governor of the Punjab and the Chief Commissioner of the Central Provinces, such tolls, rents, compensation and fines shall be credited to the Local Government and applied, <sup>6</sup>[in the first instance] to defraying all charges*

<sup>1</sup> The word "lease" in s. 15 was substituted for the word "auction" by the Northern India Ferries Act Amendment Act, 1886 (III of 1886), s. 1 (3), *infra*, p. 130.

<sup>2</sup> The words, figure and letter " and section 7A " in s. 17 were inserted by the Central Provinces Local Self-government Act, 1888 (I of 1888), s. 44, *infra*, p. 130.

<sup>3</sup> But see s. 27, *infra*, as to payment of fines to lessee of public tolls.

<sup>4</sup> Read now "Lieutenant-Governor of the United Provinces of Agra and Oudh," see s. 2 of the United Provinces (Designation) Act, 1902 (VII of 1902), General Acts, Vol. V.

<sup>5</sup> United Provinces Code.

<sup>6</sup> These words were substituted for the word "first" by s. 2 (2)<sup>6</sup> of the Amending Act, 1891 (XII of 1891), General Acts, Vol. IV.



incurred in carrying out this Act in those territories respectively, <sup>1</sup>[and shall then, at the discretion of the Local Government—

(i) *be placed at the disposal of any District Board or District Boards established under the Punjab District Boards Act, 1883,<sup>2</sup> or*

(ii) <sup>3</sup>[be applied to any local works likely to promote the public health, comfort or convenience.]

(d) *in the territories respectively administered by the Chief Commissioner of Assam and the Chief Commissioner of Ajmer and Merwara, such tolls, rents, compensation and fines shall be credited to the Local Government and applied, first, to defraying all charges incurred in carrying out this Act in those territories respectively, and then to such local works and establishments likely to promote the public health, comfort or convenience as the Local Government, subject to the control of the Governor General in Council, may from time to time direct.*

18. The Local Government may, if it thinks fit, from time to time fix Compounding rates at which any person may compound for the tolls payable for the use of <sup>for tolls.</sup> a public ferry.

### III.—PRIVATE FERRIES.

19. The Commissioner of the division may, with the previous sanction of the Local Government, from time to time, make rules for the maintenance <sup>Power to make rules.</sup> of order and for the safety of passengers and property at ferries other than public ferries.

20. The tolls charged at such ferries shall not exceed the highest rates <sup>Tolls.</sup> for the time being fixed under section 15 for similiar public ferries.

### IV.—PENALTIES AND CRIMINAL PROCEDURE.

21. Every lessee or other person authorized to collect the tolls of a public ferry, who neglects to affix and keep in good order and repair the table of <sup>Penalty for breach of provisions as to table of tolls, list of tolls, and return of traffic.</sup> tolls mentioned in section 16,

or who wilfully removes, alters or defaces such table, or allows it to become illegible,

or who fails to produce on demand, the list of the tolls mentioned in section 16,

<sup>1</sup> These words and sub-clauses were substituted for the concluding portion of clause (c) by s. 2 (2) of the Amending Act, 1891 (XII of 1891), General Acts, Vol. IV. The concluding portion was as follows:—

“and then at the discretion of the Local Government, to any of the purposes specified in the second clause of section 7 of the Punjab Local Rates Act, 1878, or the second clause of section 5 of the Central Provinces Additional Rates Act, 1878, as the case may be, and”

<sup>2</sup> Punjab Code.

<sup>3</sup> Sub-clause (ii) of clause (c) was substituted by the Schedule to the Repealing and Amending (Rates and Cesses) Act, 1907 (IV of 1907), *infra*, p. 318.

and every lessee who neglects to furnish any return required under section 12,

shall be punished with fine which may extend to fifty rupees.

Penalty for taking unauthorized toll, and for causing delay.

22. Every such lessee or other person as aforesaid and any person in possession of a private ferry asking or taking more than the lawful toll, or without due cause delaying any person, animal, vehicle or other thing, shall be punished with fine which may extend to one hundred rupees.

Penalty for breach of rules made under sections 12 and 19.

23. Every person breaking any rule made under section 12 or section 19 shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to two hundred rupees, or with both.

Cancelment of lease on default or breach of rules.

24. When any lessee of the tolls of a public ferry makes default in the payment of the rent payable in respect of such toll, or has been convicted of an offence under section 23, or, having been convicted of an offence under section 21 or section 22, is again convicted of an offence under either of those sections, the Magistrate of the district may, with the sanction of the Commissioner of the division, cancel the lease of the tolls of such ferry, and make other arrangement for its management during the whole or any part of the term for which the tolls were let.

Penalties on passengers offending.

25. Every person crossing by any public ferry, or using the approach to, or landing-place thereof, who refuses to pay the proper toll, and every person— who, with intent to avoid payment of such toll, fraudulently or forcibly crosses by any such ferry without paying the toll; or

who obstructs any toll-collector or lessee of the tolls of a public ferry, or any of his assistants, in any way in the execution of their duty under this Act; or

who, after being warned by any such toll-collector, lessee or assistant not to do so, goes or takes any animals, vehicles or other things into any ferry-boat, or upon any bridge, at such a ferry, which is in such a state or so loaded as to endanger human life or property; or

who refuses or neglects to leave, or remove any animals, vehicles or goods from, any such ferry-boat or bridge, on being requested by such toll-collector, lessee or assistant to do so,

shall be punished with fine which may extend to fifty rupees.

Penalty for maintaining private ferry within prohibited limits.

26. [Whoever establishes, maintains or works a ferry in contravention of the provisions of section 13 shall be punished with fine which may extend to five hundred rupees, and with a further fine which may extend to one

<sup>1</sup> S. 26 was substituted for the original section by s. 2 (3) of the Northern India Ferries Act Amendment Act, 1886 (III of 1886), *infra*, p. 130. The original section was as follows:—  
“Whoever conveys for hire any passenger, animal, vehicle or other thing, in contravention of the provisions of section 13, shall be punished with fine which may extend to fifty rupees.”

hundred rupees for every day during which the ferry is maintained or worked in contravention of those provisions.]

27. Where the tolls of any public ferry have been let under the provisions hereinbefore contained, the whole or any portion of any fine realized under section 25 or section 26 may, notwithstanding anything contained in section 17, be, at the discretion of the convicting Magistrate or Bench of Magistrates, paid to the lessee. Fines payable to lessee.

28. Whoever navigates, anchors, moors or fastens any vessel or raft, or stacks any timber, in a manner so rash or negligent as to damage a public ferry, shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both; and the toll-collector or lessee of the tolls of such ferry or any of his assistants, may seize and detain such vessel, raft or timber pending the enquiry and assessment hereinafter mentioned. Penalty for rash navigation and stacking of timber.

29. The police may arrest without warrant any person committing an offence against section 25 or section 28. Power to arrest without warrant.

30. Any Magistrate or Bench of Magistrates having summary jurisdiction under Chapter XVIII<sup>1</sup> of the Code of Criminal Procedure may try any offence against this Act in manner provided by that Chapter. Power to try summarily.

31. Every Magistrate or Bench of Magistrates trying any offence under this Act may enquire into and assess the value of the damage (if any) done or caused by the offender to the ferry concerned, and shall order the amount of such value to be paid by him in addition to any fine imposed upon him under this Act; and the amount so ordered to be paid shall be leviable as if it were a fine, or when the offence is one under section 28, by the sale of the vessel, raft or timber causing the damage, and of anything found in or upon such vessel or raft. Magistrate may assess damage done by offender.

The Commissioner of the Division may, on the appeal of any person deeming himself aggrieved by an order under this section, reduce or remit the amount payable under such order.

#### V.—MISCELLANEOUS.

32. When the lease of the tolls of any ferry is surrendered under section 11 or cancelled under section 24, the Magistrate of the district may take possession of all boats and their equipment, and all other material and appliances, used by the lessee for the purposes of such ferry, and use the same (paying such compensation for the use thereof as the Local Government may in each case direct) until such Magistrate can conveniently procure proper substitutes therefor. Power to take possession of boats, etc., on surrender or cancellation of lease.

<sup>1</sup> See now Chapter XXII of the Code of Criminal Procedure, 1898 (Act V of 1898), General Act, Vol. VI.

Similar  
power in  
cases of  
emergency.

33. When any boats or their equipment, or any materials or appliances suitable for setting up a ferry, are emergently required for facilitating the transport of officers or troops of Her Majesty on duty, or of any other persons on the business of Her Majesty, or of any animals, vehicles or baggage belonging to such officers, troops or persons, or of any property of Her Majesty, the Magistrate of the district may take possession of and use the same (paying such compensation for the use thereof as the Local Government may in each case direct) until such transport is completed.

Jurisdiction  
of Civil  
Courts  
barred.

34. No suit to ascertain the amount of any compensation payable, or abatement of rent allowable, under this Act shall be cognizable by any Civil Court.

Delegation  
of powers.

35. The Local Government may, from time to time, delegate, under such restrictions as it thinks fit, any of the powers conferred on it by this Act to any Commissioner of a division or Magistrate of a district or to such other officer as it thinks fit, by name or by virtue of his office.

36. [*Validation of proceedings since repeal of Regulation VI of 1819 in Punjab.*] *Rep. Repealing and Amending Act, 1891 (XII of 1891).*

#### ACT No. II OF 1879.<sup>1</sup>

#### [THE CENTRAL PROVINCES LAWS ACT, 1879.]

[19th February, 1879.]

#### An Act to make better provisions for recording evidence in the Central Provinces.

Preamble.

WHEREAS, in order to provide for the recording of evidence in civil suits in the Central Provinces by the Judge in English or in his own language, it is expedient to amend the Central Provinces Laws Act, 1875; It is hereby XX of 18 enacted as follows :—

Short title.

1. This Act may be called the Central Provinces Laws Act, 1879; and it shall come into force at once.

Commence-  
ment.  
Addition to  
Act XX of  
1875.

2. The following sections shall be deemed to have been added to the said Central Provinces Laws Act, 1875, immediately after the Code of Civil Procedure<sup>2</sup> came into force, that is to say :—

11. [*Vide supra*, p. 62.]

12. [*Vide supra*, p. 62.]

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1878, Pt. V, p. 371, and for Proceedings in Council, see *ibid.* Supplement, p. 160, and *ibid.*, 1879, Supplement, p. 165.

<sup>2</sup> The Code of Civil Procedure in force at the time Act II of 1879 was passed, was Act X of 1877 which came into force on the 1st October, 1877, see section 1. It was repealed by the Code of 1882 (Act XIV of 1882), which in turn has been repealed by the present Code (Act V of 1908).

ACT No. XIV of 1879.<sup>1</sup>

## [THE HACKNEY-CARRIAGE ACT, 1879.]

[5th September, 1879.]

## An Act for the regulation and control of Hackney-carriages in certain Municipalities and Cantonments.

WHEREAS it is expedient to provide for the regulation and control of hackney-carriages in certain municipalities and cantonments; it is hereby enacted as follows :—

1. This Act may be called the Hackney-carriage Act, 1879 :

Short title.

[Commencement] *Rep : Act XVII of 1914, s. 3 and 2nd Schedule.*

Nothing herein contained shall affect any power conferred by any law relating to municipalities,<sup>2</sup> or any rule made in exercise of any such power.

Interpretation-clause.

2. In this Act—

“hackney-carriage” means any wheeled vehicle drawn by animals and used for the conveyance of passengers which is kept, or offered, or plies, for hire; and

“committee” means a municipal committee, or a body of municipal commissioners, constituted under the provisions of any enactment<sup>3</sup> for the time being in force.

3. [The Lieutenant-Governors of the United Provinces of Agra and Oudh, the Punjab and Burma and the Chief Commissioners of the Central Provinces,] Assam, Ajmere and Coorg, may by notification in the official Gazette, apply this Act to any municipality<sup>4</sup> in the territories administered by them respectively.

Application of Act to municipalities.

When this Act has been so applied to any municipality, the Committee of such municipality may, from time to time, make rules<sup>5</sup> for the regulation and control of hackney-carriages within the limits of such municipality, in the manner in which, under the law<sup>6</sup> for the time being in force, it makes rules or bye-laws for the regulation and control of other matters within such limits.

Power of committees to make rules.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1879, Pt. V, p. 52, and for Proceedings in Council, see *ibid.*, Supplement, pp. 49, 78 and 1141.

<sup>2</sup> For the law relating to municipalities in the Central Provinces, see Act XVI of 1903, *infra*, p. 255.

<sup>3</sup> Substituted for “The Lieutenant-Governors of the North-Western Provinces, and the Punjab and the Chief Commissioners of Oudh, the Central Provinces, British Burma,” by the Amending Act, 1903, (I of 1903).

<sup>4</sup> For list of municipalities in the Central Provinces to which this Act has been applied, see Central Provinces Local Rules and Orders.

<sup>5</sup> For list of rules made by municipalities in the Central Provinces under s. 3, see Central Provinces Local Rules and Orders.

<sup>6</sup> For the law relating to municipalities in the Central Provinces, see Act XVI of 1903, *infra*, p. 255. Rules cannot be made under that Act in respect of vehicles to which Act XIV of 1879 applies, see *ibid.*, s. 105 (4).

Confirmation  
and publica-  
tion of rules,

Every rule made under this section shall, when confirmed by the [Com-  
missioner]<sup>1</sup> and published for such time and in such manner as the [Commis-  
sioner]<sup>1</sup> may, from time to time, prescribe, have the force of law :

Power of  
Local Govern-  
ment to  
rescind rules.  
Power to  
make rules  
for canton-  
ments.

Provided that the [Commissioner]<sup>1</sup> may, at any time, rescind any such  
rule.

4. The Local Government of any of the said territories may, from time  
to time, \* \* \* \* \*<sup>2</sup> make rules<sup>3</sup>  
for the regulation and control of hackney-carriages in any military cantonment  
situated in the territory administered by it \* \* \* \* \*

All rules made under this section, when published for such time and in  
such manner as the authority making the same may, from time to time, pre-  
scribe, shall have the force of law.

Power to  
extend oper-  
ation of  
rules beyond  
limits of  
municipality  
or canton-  
ment.

5. The authority making any rules under this Act may extend their  
operation to any railway-station,<sup>5</sup> or specified part of a road not more than  
six miles from the local limits of the municipality or cantonment concerned :

Provided that such extension shall be made, in the case of a municipality,  
with the sanction of the <sup>1</sup>[Commissioner], and, in the case of a <sup>5</sup>cantonment  
situate in British India, subject to the control of the Governor General in  
Council.

When any rules have been made under this Act for any municipality, the  
Local Government may, subject to the control of the Governor General in  
Council, extend the operation of such rules to any cantonment the boundary  
of which is not more than six miles distant from the boundary of such  
municipality.

What rules  
under sections  
3 and 4 may  
provide for.

6. The rules to be made under section 3 or section 4 may, among other  
matters,—

- (a) direct that no hackney-carriage, or no hackney-carriage of a particular  
description, shall be let to hire, or taken to ply, or offered for  
hire, except under a license granted in that behalf ;
- (b) direct that no person shall act as driver of a hackney-carriage except  
under a license granted in that behalf ;

<sup>1</sup> This word was substituted for the words "Local Government" by the Decentralization Act, 1914 (IV of 1914).

<sup>2</sup> The words "subject to the control of the Governor General in Council" were omitted by the Decentralization Act, 1914 (IV of 1914).

<sup>3</sup> For such rules, see Central Provinces Local Rules and Orders.

<sup>4</sup> The words "and the Governor General in Council, may, from time to time, make rules for the regulation and control of hackney-carriages in any place in India, but not in British India, in which British troops are cantoned" were repealed by the Cantonments Act, 1889 (XIII of 1889).

<sup>5</sup> For notifications extending the Act to Railway Stations and Cantonments in the Central Provinces, see Central Provinces Local Rules and Orders.

- (c) provide for the issue of the licenses referred to in clauses (a) and (b), prescribe the conditions (if any) on which such licenses shall be granted, and fix the fees (if any) to be paid therefor ;
- (d) regulate the description of animals, harness and other things to be used with licensed carriages, and the condition in which such carriages and the animals, harness and other things used therewith, shall be kept, and the lights (if any) to be carried after sunset and before sunrise ;
- (e) provide for the inspection of the premises on which any such carriages, animals, harness and other things are kept ;
- (f) fix the time for which such licenses shall continue in force, and the events (if any) upon which within such time they shall be subject to revocation or suspension ;
- (g) provide for the numbering of such carriages ;
- (h) determine the times at which, and the circumstances under which, any person keeping a hackney-carriage shall be bound to let or refuse to let such carriage to any person requiring the same ;
- (i) appoint places as stands for hackney-carriages and prohibit such carriages waiting for hire except at such places ;
- (j) limit the rates or fares, as well for time as distance, which may be demanded for the hire of any hackney-carriage ; and prescribe the minimum speed at which such carriages when hired by time shall be driven ;
- (k) limit the number of persons, and the weight of property, which may be conveyed by any such carriage ;
- (l) require the owner or person in charge of any such carriage to keep a printed list of fares in English and such other language as may be prescribed affixed inside such carriage in such place as may be determined by the rules, and prohibit the destruction or defacement of such list ;
- (m) require drivers to wear a numbered badge or ticket, and to produce their licenses when required by a Magistrate or other person authorized by the rules in this behalf, and prohibit the transfer or lending of such licenses and badges, and
- (n) provide for the deposit of property found in such carriages, and the payment of a fee by the owner of such property on the delivery thereof to him.

7. Any person breaking any rule made under this Act shall be punished with fine which may extend to fifty rupees. Penalty for breach of rules.

Disposal of  
fees and  
payment of  
expenses.

8. The amount of any fees received and the amount of any expenses incurred in giving effect to this Act shall in any municipality be credited and debited respectively to the Municipal Fund, and, in any cantonment where there is a Cantonment Fund to such fund.

Power of  
Magistrate  
to decide  
disputes re-  
garding fares.

9. If any dispute arises between the hirer of any hackney-carriage and the owner or driver of such carriage as to the amount of the fare payable by such hirer under any rule made under this Act, such dispute shall, upon application made in that behalf by either of the disputing parties, be heard and determined by any Magistrate or Bench of Magistrates within the local limits of whose jurisdiction such dispute has arisen; and such Magistrate or Bench may, besides determining the amount so in dispute, direct that either party shall pay to the other such sum as compensation for loss of time as such Magistrate or Bench thinks fit.

Any sum determined to be due or directed to be paid under this section shall be recoverable as if it were a fine.<sup>1</sup>

The decision of any Magistrate or Bench in any case under this section shall be final.

When any such case is heard by a Bench, any difference of opinion arising between the members of such Bench shall be settled in the same manner as differences of opinion arising between such members in the trial of criminal cases.

In case of  
dispute, hirer  
may require  
driver to  
take him to  
Court.

10. If, at the time any dispute mentioned in section 9 arises, any Magistrate or Bench of Magistrates having jurisdiction in respect of such dispute is sitting within the local limits to which the rules apply, the hirer of the carriage may require the driver thereof to take him in the same to the Court of such Magistrate or Bench for the purpose of making an application under that section.

Any driver neglecting or refusing to comply with such requisition shall be punished with imprisonment for a term which may extend to one month, or with fine not exceeding fifty rupees, or with both.

## THE VACCINATION ACT, 1880 (XIII OF 1880).

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19. Power to make rules for municipalities.
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ACT No. XIII of 1880.<sup>1</sup>

## [THE VACCINATION ACT, 1880.]

[9th July 1880.]

An Act to give power to prohibit inoculation, and to make the vaccination of children compulsory, in certain Municipalities,\*<sup>2</sup> Cantonments<sup>3</sup> [and notified areas.]

WHEREAS it is expedient to give power to prohibit inoculation, and make the vaccination of children compulsory, in certain municipalities,<sup>2\*</sup> canton-

Preamble.

<sup>1</sup> For Statement of Object and Reasons, see Gazette of India, 1880, Pt. V, p. 89; for Report of the Select Committee, see *ibid.*, p. 205, and for Proceedings in Council, see *ibid.*, 1879, Supplement, p. 1225; *ibid.*, 1880, pp. 566 and 1204.

<sup>2</sup> The word "and" was omitted by the Central Provinces Vaccination Law Amendment Act, 1915 (C. P. Act III of 1915), *infra*, p. 359.

<sup>3</sup> These words were inserted by *ibid.*

ments <sup>1</sup> [and notified areas as defined in section 169 of the Central Provinces Municipal Act, 1903 ;] It is hereby enacted as follows :—

Short title.  
Application.

1. This Act may be called the Vaccination Act, 1880 : and

It shall apply only to such municipalities, <sup>2</sup>\* cantonments <sup>1</sup> [ and notified areas ] situate in the territories administered respectively by the Lieutenant-Governors of the <sup>3</sup> North-Western Provinces and the Punjab, and the Chief Commissioners of Oudh, <sup>3</sup> the Central Provinces, British Burma, <sup>4</sup>Assam, Ajmere and Coorg as it may be extended to in manner hereinafter <sup>5</sup> provided.

Interpreta-  
tion clause.

2. In this Act, unless there is something repugnant in the subject or context,—

“ Municipal  
Commis-  
sioners :”

(1) the expression “ Municipal Commissioners ” means a body of Municipal Commissioners or a Municipal Committee constituted under the provisions of any enactment, <sup>6</sup> for the time being in force :

“ parent :”

(2) “ parent ” means the father of a legitimate child and the mother of an illegitimate child :

“ guardian :”

(3) “ guardian ” includes any person who has accepted or assumed the care or custody of any child :

“ unprotected  
child.”

(4) “ unprotected child ” means a child who has not been protected from small-pox by having had that disease either naturally or by inoculation, or by having been successfully vaccinated, and who has not been certified under this Act to be insusceptible to vaccination :

“ inocula-  
tion :”

(5) “ inoculation ” means any operation performed with the object of producing the disease of small-pox in any person by means of variolous matter :

“ vaccina-  
tion-circle :”

(6) “ vaccination-circle ” means one of the parts into which a municipality, <sup>7</sup>\* cantonment <sup>1</sup> [or notified area ] has been divided under this Act for the performance of vaccination :

“ vaccinator :”

(7) “ vaccinator ” means any vaccinator appointed under this Act to perform the operation of vaccination, or any private person authorized <sup>8</sup> \* \* \* in manner hereinafter provided to perform the same operation; and includes a “ Superintendent of Vaccination :”

<sup>1</sup> These words were inserted by the Central Provinces Vaccination Law Amendment Act, 1915 (C. P. Act III of 1915), *infra*, p. 360.

<sup>2</sup> The word “ and ” was omitted by *ibid.*

<sup>3</sup> Read now Lieutenant-Governor of the United Provinces of Agra and Oudh, *see* the United Provinces (Designation) Act, 1902 (VII of 1902), General Acts, Vol. V.

<sup>4</sup> For “ British Burma ” read now Lower Burma, *see* the Burma Laws Act, 1898 (XIII of 1898), s. 7, Burma Code. The Chief Commissioner is now Lieutenant-Governor of Burma.

<sup>5</sup> *See* ss. 3 and 4, *infra*.

<sup>6</sup> For the Law relating to municipalities in the Central Provinces, *see* Act XVI of 1903, *infra*.

<sup>7</sup> The word “ or ” was omitted by the Central Provinces Vaccination Law Amendment Act, 1915 (C. P. Act, III of 1915), *infra*, p. 360.

<sup>8</sup> The words “ by the Local Government ” were omitted by the Decentralization Act, 1914 (IV of 1914).

- (8) "vaccination-season" means the period from time to time fixed by the Local Government for any local area under its administration by notification in the official Gazette, during which alone vaccination may be performed under this Act. "vaccination season"

3. A majority in number of the persons present at a meeting of the Municipal Commissioners specially convened in this behalf may apply to the Local Government to extend this Act to the whole or any part of a Municipality : and thereupon the Local Government may, if it thinks fit, by notification published in the official Gazette, declare its intention to extend this Act in the manner proposed. Extension of Act to municipalities.

Any inhabitant of such municipality or part thereof who objects to such extension may within six weeks from the date of such publication, send his objection in writing to the Secretary to the Local Government, and the Local Government shall take such objection into consideration. When six weeks from the said publication have expired, the Local Government, if no such objections have been sent as aforesaid, or (when such objections have been so sent) if in its opinion they are insufficient, may by like notification, effect the proposed extension.<sup>1</sup>

3-A. The Local Government may, by notification in the local official Gazette, declare its intention to extend this Act to the whole or any part of a notified area. Extension of Act to notified areas.

Any inhabitant of such notified area or part thereof who objects to such extension may, within six weeks from the date of such publication, send his objection in writing to the Secretary to the Local Government, and the Local Government shall take such objection into consideration. When six weeks from the said publication have expired, the Local Government, if no such objections have been sent as aforesaid, or when such objections have been so sent if in its opinion they are insufficient, may by like notification effect the proposed extension.<sup>2</sup>

4. The Local Government may, <sup>3</sup>[subject to the control] of the Governor General in Council, by notification in the local official Gazette, extend this Act to the whole or any part of a military cantonment. Extension to cantonments.

5. The Local Government may, by notification in the official Gazette, withdraw any local area in a municipality <sup>5</sup>[or notified area] or <sup>3</sup>[subject to the control] of the Governor General in Council, by notification in the local official Gazette, to withdraw any local area from operation of Act. Power to withdraw local area from operation of Act.

<sup>1</sup> For list of extensions, under s. 3, see Central Provinces Local Rules and Orders.

<sup>2</sup> S. 3 A. was inserted by the Central Provinces Vaccination Law Amendment Act, 1915 (C. P. Act III of 1915), *infra*, p. 360. For list of extensions under s. 3 A, see C. P. Local Rules and Orders.

<sup>3</sup> These words were substituted for the words "with the previous sanction" by the Decentralization Act, 1914 (IV of 1914).

<sup>4</sup> For list of extensions under s. 4, see Central Provinces Local Rules and Orders.

<sup>5</sup> These words were inserted by the Central Provinces Vaccination Law Amendment Act, 1915 (C. P. Act III of 1915), *infra*, p. 360.

control] of the Governor-General in Council, any local area in a cantonment from the operation of this Act.

Prohibition of  
Inoculation.

6. In any local area to which the provisions of this Act apply inoculation shall be prohibited ; and

Inoculated  
persons not to  
enter, with-  
out certificate,  
local area  
subject to  
Act.

no person who has undergone inoculation shall enter such area before the lapse of forty days from the date of the operation, without a certificate from a medical practitioner, of such class as the Local Government may from time to time by written order authorize to grant such certificates, stating that such person is no longer likely to produce small-pox by contact or near approach.

Vaccination-  
circles.

7. Every local area to which this Act applies shall be a vaccination-circle or shall in manner hereinafter provided be divided into a number of such circles ;

Vaccinators.

one or more vaccinators shall be appointed in manner hereinafter provided for each such circle ; and

Superintend-  
ents of  
Vaccination.

one or more superintendents of Vaccination shall be appointed in manner hereinafter provided for each such local area.

Private  
vaccinators.

8. The <sup>1</sup>[Commissioner] may by written license authorize private vaccinators to perform vaccination in any vaccination-circle, and may suspend or cancel any such license.

Unprotected  
children to be  
vaccinated.

9. When any unprotected child, having attained the age of six months, has resided for a period of one month during the vaccination-season in any local area to which the provisions of this Act apply, and has not at the expiration of such period attained the age, if a boy, of fourteen years, and if a girl, of eight years, the parent or guardian of such child shall take it, or cause it to be taken, to a vaccinator to be vaccinated, or send for a vaccinator to vaccinate it.

Vaccinator  
to vaccinate  
children, or  
deliver certi-  
ficates of post-  
ponement.

Such vaccinator shall vaccinate the child and deliver to its parent or guardian a memorandum stating the date on which the vaccination has been performed and the date on which the child is to be inspected in order to ascertain the result of the operation ; or shall, if he finds such child in a state unfit for vaccination, deliver to its parent or guardian a certificate under his hand to the effect that the child is in a state unfit for vaccination for the whole or part of the current vaccination-season.

Inspection  
after vacci-  
nation.

10. The parent or guardian or every child which has been vaccinated under section 9 shall, on the date of inspection stated in the memorandum, take the child, or cause it to be taken, to a vaccinator for inspection, or get it inspected at his own house by a vaccinator ; and

<sup>1</sup> This word was substituted for the words " Local Government " by the Decentralization Act, 1914 (IV of 1914).

such vaccinator shall then append to the memorandum a certificate stating that the child has been inspected and the result of such inspection.

11. When it is ascertained at the time of inspecting a child under section 10 that the vaccination has been successful, a certificate shall be delivered by the vaccinator to the parent or guardian of such child to that effect, and such child shall thereafter be deemed to be protected. Procedure when vaccination is successful.

12. When it is ascertained as aforesaid that the vaccination has been unsuccessful, the parent or guardian shall, if the vaccinator so direct, cause the child to be forthwith again vaccinated and subsequently inspected in manner hereinbefore provided. Procedure when vaccination is unsuccessful.

13. A certificate granted under section 9 showing the unfitness of a child for vaccination shall remain in force for the period stated therein, and on the termination of that period, or, if that period terminates after the vaccination-season is over, when the next vaccination-season begins, the parent or guardian of such child shall take the child, or cause it to be taken, to a vaccinator to be vaccinated, or procure its vaccination at his own house by a vaccinator : Procedure when child is unfit for vaccination.

Provided that, if the child is still found to be in a state unfit for vaccination, the certificate granted under section 9 shall be renewed. Renewal of postponement certificates.

14. If the Superintendent of Vaccination is of opinion that a child which has been three times unsuccessfully vaccinated is insusceptible of successful vaccination, he shall deliver to the parent or guardian of such child a certificate under his hand to that effect ; and the parent or guardian shall thenceforth not be required to cause the child to be vaccinated. Certificate of insusceptibility of successful vaccination.

15. The vaccination of a child shall ordinarily be performed with such lymph as may be prescribed by the rules to be made under this Act : What lymph to be used.

Provided that,—

1st, if animal-lymph is so prescribed and the parent or guardian of any child desires that such child shall be vaccinated with human lymph, it shall be so vaccinated ; and,

2nd, if in any local area in which animal-lymph is procurable human lymph is so prescribed, and the parent or guardian of any child desires that such child should be vaccinated with animal-lymph, and tenders to the vaccinator the amount of such fee, not exceeding one rupee, as may be fixed by such rules in this behalf, such child shall be so vaccinated.

16. No fee shall be charged by any vaccinator except a private vaccinator to the parent or guardian of any child for any of the duties imposed on such vaccinator by or under the provisions of this Act : No fee to be charged except by private vaccinator.

Provided that it shall be lawful for a vaccinator to accept a fee for vaccinating a child by request of the parent or guardian elsewhere than in the circle for which such vaccinator is appointed. Proviso.

Duties of Superintendent of Vaccination.

17. The Superintendent of Vaccination, in addition to the other duties imposed on him by or under the provisions of this Act, shall ascertain whether all unprotected children, under the age of fourteen years if boys, and under the age of eight years if girls, within the local area under his superintendence have been vaccinated ; and, if he has reason to believe that the parent or guardian of any such child is bound by the provisions hereinbefore contained to procure the vaccination of such child or to present it for inspection, and has omitted so to do, he shall personally go to the house of such parent or guardian, and there make enquiry, and shall, if the fact is proved, forthwith deliver to such parent or guardian, or cause to be affixed to his house, a notice requiring that the child be vaccinated, or (as the case may be) that it be presented for inspection, at a time and place to be specified in such notice.

Notice to parent or guardian neglecting to comply with Act.

Order by Magistrate when notice not complied with.

18. If such notice is not complied with, the Superintendent of Vaccination shall report the matter to the Magistrate of the district,<sup>1</sup> or such Magistrate as the Local Government or the Magistrate of the district<sup>1</sup> may from time to time appoint in this behalf ; and the Magistrate receiving such report shall summon the parent or guardian of the child and demand his explanation, and shall, if such explanation is not satisfactory, make an order in writing directing such parent or guardian to comply with the notice before a date specified in the order.

Procedure when order not obeyed.

If on such date the order has not been obeyed, the Magistrate shall summon the parent or guardian before him, and, unless just cause or excuse is shown, shall deal with the disobedience as an offence punishable under section 22.

Magistrates to be non-official Natives. Power to make rules for municipalities.

The Magistrates appointed under this section shall, as far as is conveniently practicable, be Natives of India, and not paid servants of the Government.

19. When this Act has been applied to any municipality or any part thereof the Municipal Commissioners may from time to time, make rules<sup>2</sup> consistent with this Act for the proper enforcement of this Act within the limits to which it applies. Such rules shall be made in the manner in which, under the law<sup>3</sup> for the time being in force, the<sup>4</sup> [Municipal] Commissioners make rules or bye-laws for the regulation of other matters within the limits of the municipality, and shall, when confirmed by the<sup>5</sup> [Commissioner] and published in the official Gazette, have the force of law :

<sup>1</sup> Read District Magistrate, see Code of Criminal Procedure, 1898 (Act V of 1898), "s. 3, General Acts, Vol. V.

<sup>2</sup> For list of such rules made for several municipalities, see Central Provinces Local Rules and Orders.

<sup>3</sup> For the law relating to municipalities in the Central Provinces, see Act XVI of 1903, *infra*, p. 249.

<sup>4</sup> This word was inserted by the Decentralization Act, 1914 (VI of 1914).

<sup>5</sup> This word was substituted for the words "Local Government" by *ibid*.

Provided that the <sup>1</sup>[Commissioner] may at any time rescind or modify any such rule.

<sup>2</sup>19-A. [When this Act has been applied to any notified area or any part thereof, the Local Government may, from time to time, make rules consistent with this Act for the proper enforcement of this Act, within the limits to which it applies. Such rules when published in the local official Gazette, shall have the force of law.]

20. When this Act has been applied to any cantonment or any part thereof, the Local Government may, from time to time, subject to the control of the Governor General in Council, make such rules.<sup>3</sup>

21. The rules to be made for any local area under sections 19, <sup>2</sup>[19-A] or 20 may, among other matters, provide for—

- (a) the division of such local area into circles for the performance of vaccination ;
- (b) the appointment of a place in each vaccination-circle as a public vaccine-station, and the posting of some distinguishing mark in a conspicuous place near such station ;
- (c) the qualifications to be required of public vaccinators and Superintendents of Vaccination ;
- (d) the authority with which their appointment, suspension and dismissal shall rest ;
- (e) the time of attendance of public vaccinators at the vaccine-stations, and their residence within the limits of the vaccination-circles ;
- (f) the distinguishing mark or badge to be worn by them ;
- (g) the amount of fee chargeable by private vaccinators, and their guidance generally in the performance of their duties ;
- (h) the facilities to be afforded to people for procuring the vaccination of their children at their own houses ;
- (i) the grant and form of certificates of successful vaccination, of unfitness for vaccination or of insusceptibility of vaccination ;
- (j) the nature of the lymph to be used and the supply of a sufficient quantity of such lymph ;
- (k) the fee to be paid for vaccination with animal-lymph under section 15 ;
- (l) the fee to be paid to a public vaccinator for vaccinating a child beyond the vaccination-circle at the request of the parent or guardian of the said child ;

<sup>1</sup> This word was substituted for the words " Local Government " by the Decentralization Act, 1914 (IV of 1914).

<sup>2</sup> S. 19 A was inserted by the Central Provinces Vaccination Law Amendment Act, 1915 (C. P. Act III of 1915), *infra*, p. 360. For rules made under s. 19-A for notified areas, see C. P. Local Rules and Orders.

<sup>3</sup> For rules under s. 20 for Cantonments, see Central Provinces Local Rules and Orders.

(m) the preparation and keeping of registers showing—

the names of children born in such local area on or after the date of the application of this Act ;

the names of unprotected children born in such local area previous to the application of this Act, and who are, at the time this Act is applied, under the age of fourteen years if boys, and of eight years if girls ;

the names of unprotected boys and girls respectively under those ages brought within such local area at any time after the application of this Act and who have resided there for a month ;

the result of each vaccination or its postponement, and the delivery of certificates, if any ;

(n) the assistance to be given by the Municipal Commissioners and municipal servants in the preparation of these registers, and in other matters ; and

(o) the preparation of vaccination-reports and returns.

Punishment  
of offences.

22. Whoever commits any of the undermentioned offences (that is to say) :

(a) violates the provisions of section 6,

(b) neglects without just excuse to obey an order made under section 18,

(c) breaks any of the rules made under section 19, <sup>1</sup>[19 A] or 20, or

(d) neglects without just cause to obey an order made under section 18 after having been previously convicted of so neglecting to obey a similar order made in respect of the same child,

shall be punished as follows (that is to say) :—

in the case of the offence mentioned in clause (a), with simple imprisonment for a term which may extend to three months, or with fine which may extend to two hundred rupees, or with both ;

in the case of the offences mentioned in clauses (b) and (c), with fine which may extend to fifty rupees ; and

in the case of the offence mentioned in clause (d), with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Municipal  
Funds to re-  
ceive fines  
and meet  
expenditure.

23. The amount of all fees and fines realized, and the amount of all expenditure incurred, under this Act in any municipality <sup>2</sup>[ or notified area ] shall respectively be credited to and paid from the Municipal Fund, <sup>2</sup>[ or Notified Area Fund.]

<sup>1</sup> Inserted by the Central Provinces Vaccination Law Amendment Act, 1915 (C. P. Act III of 1915), *infra*, p. 360.

<sup>2</sup> These words in s. 23 were inserted by *ibid.*



## THE INDIAN EASEMENTS ACT, 1882 (V OF 1882).

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ACT No. V OF 1882.<sup>1</sup>

## [THE INDIAN EASEMENTS ACT, 1882.]

[17th February 1882.]

An Act to define and amend the law relating to Easements  
and Licenses.

WHEREAS it is expedient to define and amend the law relating to Easements and Licenses ; It is hereby enacted as follows :—

## PRELIMINARY.

1. This Act may be called the Indian Easements Act, 1882.

It extends to the territories respectively administered by the Governor of Madras in Council and the Chief Commissioners of the Central Provinces and Coorg ;

And it shall come into force on the first day of July, 1882.

2. Nothing herein contained shall be deemed to affect any law not expressly repealed ; or to derogate from—

(a) any right of the Government to regulate the collection, retention and distribution of the water of rivers and streams flowing in natural

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1880, Pt. V, p. 494 ; for Report of the Select Committee, see *ibid*, 1881, Pt. V, p. 1021 ; and for Proceedings in Council, see *ibid*, 1881, Supplement, pp. 687 and 706, and *ibid*, 1882, Supplement, p. 172.

channels, and of natural lakes and ponds, or of the water flowing, collected, retained or distributed in or by any channel or other work constructed at the public expense for irrigation ;

(b) any customary or other right (not being a license) in or over immoveable property which the Government, the public or any person may possess irrespective of other immoveable property or

(c) any right acquired, or arising out of a relation created, before this Act comes into force.

13. All references in any Act or Regulation to sections 26 and 27 of the Indian Limitation Act, 1877<sup>1</sup> or to sections 27 and 28 of Act No. IX of 1871<sup>2</sup> shall, in the territories to which this Act extends, be read as made to sections 15 and 16 of this Act.]

Construction of certain references to Act XV of 1877 and Act IX of 1871.

## CHAPTER I.

### OF EASEMENTS GENERALLY.

"Easement" defined.

4. An easement is a right which the owner or occupier of certain land possesses as such, for the beneficial enjoyment of that land, to do and continue to do something, or to prevent and continue to prevent something being done, in or upon, or in respect of, certain other land not his own.

Dominant and servient heritages and owners.

The land for the beneficial enjoyment of which the right exists is called the dominant heritage, and the owner or occupier thereof the dominant owner ; the land on which the liability is imposed is called the servient heritage, and the owner or occupier thereof the servient owner.

*Explanation.*—In the first and second clauses of this section, the expression "land" includes also things permanently attached to the earth : the expression "beneficial enjoyment" includes also possible convenience, remote advantage, and even a mere amenity ; and the expression "to do something" includes removal and appropriation by the dominant owner, for the beneficial enjoyment of the dominant heritage, of any part of the soil of the servient heritage or anything growing or subsisting thereon.

### Illustrations.

(a) A, as the owner of a certain house, has a right of way thither over his neighbour B's land, for purposes connected with the beneficial enjoyment of the house. This is an easement.

<sup>1</sup> This section was substituted for the original s. 3 by the Repealing and Amending Act, 1914 (X of 1914).

The original section was as follows :—

"Sections 26 and 27 of the Indian Limitation Act, 1877 and the definition of "easement" contained in that Act, are repealed in the territories to which this Act extends. All references in any Act or Regulation to the said sections, or to sections 27 and 28 of Act No. IX of 1871, shall, in such territories, be read as made to sections 15 and 16 of this Act."

<sup>2</sup> Act IX of 1871 was repealed by Act XV of 1877 which has in turn been repealed and re-enacted by the Indian Limitation Act, 1908 (IX of 1908), General Acts, Vol. VI.

(b) A, as the owner of a certain house, has the right to go on his neighbour B's land, and to take water for the purposes of his household out of a spring therein. This is an easement.

(c) A, as the owner of a certain house, has the right to conduct water from B's stream to supply the fountains in the garden attached to the house. This is an easement.

(d) A, as the owner of a certain house and farm, has the right to graze a certain number of his own cattle on B's field, or to take, for the purpose of being used in the house, by himself, his family, guests, lodgers and servants, water or fish out of C's tank, or timber out of D's wood, or to use, for the purpose of manuring his land, the leaves which have fallen from the trees on E's land. These are easements.

(e) A dedicates to the public the right to occupy the surface of certain land for the purpose of passing and repassing. This right is not an easement.

(f) A is bound to cleanse a watercourse running through his land and keep it free from obstruction for the benefit of B, a lower riparian owner. This is not an easement.

5. Easements are either continuous or discontinuous, apparent or non-apparent.

A continuous easement is one whose enjoyment is, or may be, continual without the act of man.

A discontinuous easement is one that needs the act of man for its enjoyment.

An apparent easement is one the existence of which is shown by some permanent sign which, upon careful inspection by a competent person, would be visible to him.

A non-apparent easement is one that has no such sign.

#### *Illustrations.*

(a) A right annexed to B's house to receive light by windows without obstruction by his neighbour A. This is a continuous easement.

(b) A right of way annexed to A's house over B's land. This is a discontinuous easement.

(c) Rights annexed to A's land to lead water thither across B's land by an aqueduct and to draw off water thence by a drain. The drain would be discovered upon careful inspection by a person conversant with such matters. These are apparent easements.

(d) A right annexed to A's house to prevent B from building on his own land. This is a non-apparent easement.

6. An easement may be permanent, or for a term of years or other limited period, or subject to periodical interruption, or exercisable only at a certain place, or at certain times, or between certain hours, or for a particular purpose or on condition that it shall commence or become void or voidable on the happening of a specified event or the performance or non-performance of a specified act.

Continuous and discontinuous, apparent and non-apparent, easements.

Easement for limited time or on condition.

Easements  
restrictive of  
certain  
rights.  
Exclusive  
right to  
enjoy.

7. Easements are restrictions of one or other of the following rights (namely) :—

Rights to  
advantages  
arising from  
situation.

- (a) the exclusive right of every owner of immoveable property (subject to any law for the time being in force) to enjoy and dispose of the same and all products thereof and accessions thereto ;
- (b) the right of every owner of immoveable property (subject to any law for the time being in force) to enjoy without disturbance by another the natural advantages arising from its situation.

*Illustrations of the Rights above referred to.*

(a) The exclusive right of every owner of land in a town to build on such land, subject to any Municipal law for the time being in force.

(b) The right of every owner of land that the air passing thereto shall not be unreasonably polluted by other persons.

(c) The right of every owner of a house that his physical comfort shall not be interfered with materially and unreasonably by noise or vibration caused by any other person.

(d) The right of every owner of land to so much light and air as pass vertically thereto.

(e) The right of every owner of land that such land, in its natural condition, shall have the support naturally rendered by the subjacent and adjacent soil of another person.

*Explanation.*—Land is in its natural condition when it is not excavated and not subjected to artificial pressure ; and the “subjacent and adjacent soil” mentioned in this illustration means such soil only as in its natural condition would support the dominant heritage in its natural condition.

(f) The right of every owner of land that, within his own limits, the water which naturally passes or percolates by, over or through his land shall not, before so passing or percolating, be unreasonably polluted by other persons.

(g) The right of every owner of land to collect and dispose within his own limits of all water under the land which does not pass in a defined channel and all water on its surface which does not pass in a defined channel.

(h) The right of every owner of land that the water of every natural stream which passes by, through or over his land in a defined natural channel shall be allowed by other persons to flow within such owner's limits without interruption and without material alteration in quantity, direction, force or temperature ; the right of every owner of land abutting on a natural lake or pond, into or out of which a natural stream flows, that the water of such lake or pond shall be allowed by other persons to remain within such owner's limits without material alteration in quantity or temperature.

(i) The right of every owner of upper land that water naturally rising in, or falling on such land, and not passing in defined channels, shall be allowed by the owner of adjacent lower land to run naturally thereto.

(j) The right of every owner of land abutting on a natural stream, lake or pond to use and consume its water for drinking, household purposes and watering his cattle and sheep ; and the right of every such owner to use and consume the water for irrigating such land, and for the purposes of any manufactory situate thereon, provided that he does not thereby use material injury to other like owners.

*Explanation.*—A natural stream is a stream, whether permanent or intermittent, tidal or tideless, on the surface of land or under ground, which flows by the operation of nature only and in a natural and known course.

## CHAPTER II.

### THE IMPOSITION, ACQUISITION AND TRANSFER OF EASEMENTS.

8. An easement may be imposed by any one in the circumstances, and to <sup>Who may</sup> the extent, in and to which he may transfer his interest in the heritage on <sup>impose easements.</sup> which the liability is to be imposed.

#### *Illustrations.*

(a) A is tenant of B's land under a lease for an unexpired term of twenty years, and has power to transfer his interest under the lease. A may impose an easement on the land to continue during the time that the lease exists or for any shorter period.

(b) A is tenant for his life of certain land with remainder to B absolutely. A cannot, unless with B's consent, impose an easement thereon which will continue after the determination of his life-interest.

(c) A, B and C are co-owners of certain land. A cannot, without the consent of B and C, impose an easement on the land or on any part thereof.

(d) A and B are lessees of the same lessor, A of a field X for a term of five years, and B of a field Y for a term of ten years. A's interest under his lease is transferable; B's is not. A may impose on X, in favour of B, a right of way terminable with A's lease.

9. Subject to the provisions of section 8, a servient owner may impose on <sup>Servient owner's</sup> the servient heritage any easement that does not lessen the utility of the existing easement. But he cannot, without the consent of the dominant owner, impose an easement on the servient heritage which would lessen such utility.

#### *Illustrations.*

(a) A has, in respect of his mill, a right to the uninterrupted flow thereto, from sunrise to noon, of the water of B's stream. B may grant to C the right to divert the water of the stream from noon to sunset: provided that A's supply is not thereby diminished.

(b) A has, in respect of his house, a right of way over B's land. B may grant to C, as the owner of a neighbouring farm, the right to feed his cattle on the grass growing on the way provided that A's right of way is not thereby obstructed.

10. Subject to the provisions of section 8, a lessor may impose, on the <sup>Lessor and</sup> property leased, any easement that does not derogate from the rights of the <sup>mortgagor.</sup> lessee as such, and a mortgagor may impose, on the property mortgaged, any easement that does not render the security insufficient. But a lessor or mortgagor cannot, without the consent of the lessee or mortgagee, impose any other easement on such property, unless it be to take effect on the termination of the lease or the redemption of the mortgage.

*Explanation.*—A security is insufficient within the meaning of this section unless the value of the mortgaged property exceeds by one-third, or, if consisting of buildings, exceeds by one-half, the amount for the time being due on the mortgage.

Lessee.

11. No lessee or other person having a derivative interest may impose on the property, held by him as such, an easement to take effect after the expiration of his own interest, or in derogation of the right of the lessor or the superior proprietor.

Who may  
acquire easements.

12. An easement may be acquired by the owner of the immoveable property for the beneficial enjoyment of which the right is created, or, on his behalf, by any person in possession of the same.

One of two or more co-owners of immoveable property may, as such, with or without the consent of the other or others, acquire an easement for the beneficial enjoyment of such property.

No lessee of immoveable property can acquire, for the beneficial enjoyment of other immoveable property of his own, an easement in or over the property comprised in his lease.

Easements of  
necessity and  
quasi-easements.

13. Where one person transfers or bequeaths immoveable property to another,—

- (a) if an easement in other immoveable property of the transferor or testator is necessary for enjoying the subject of the transfer or bequest, the transferee or legatee shall be entitled to such easement; or
- (b) if such an easement is apparent and continuous and necessary for enjoying the said subject as it was enjoyed when the transfer or bequest took effect, the transferee, or legatee shall, unless different intention is expressed or necessarily implied, be entitled to such easement;
- (c) if an easement in the subject of the transfer or bequest is necessary for enjoying other immoveable property of the transferor or testator, the transferor or the legal representative of the testator shall be entitled to such easement; or
- (d) if such an easement is apparent and continuous and necessary for enjoying the said property as it was enjoyed when the transfer or bequest took effect, the transferor, or the legal representative of the testator, shall, unless a different intention is expressed or necessarily implied, be entitled to such easement.

Where a partition is made of the joint property of several persons,—

- (e) if an easement over the share of one of them is necessary for



enjoying the share of another of them, the latter shall be entitled to such easement, or

- (/f) if such an easement is apparent and continuous and necessary for enjoying the share of the latter as it was enjoyed when the partition took effect, he shall, unless a different intention is expressed or necessarily implied, be entitled to such easement.

The easements mentioned in this section, clauses (a), (c) and (e), are called easements of necessity.

Where immoveable property passes by operation of law, the persons from and to whom it so passes are, for the purpose of this section, to be deemed respectively, the transferor and transferee.

#### *Illustrations,*

(a) A sells B a field then used for agricultural purposes only. It is inaccessible except by passing over A's adjoining land or by trespassing on the land of a stranger. A is entitled to a right of way, for agricultural purposes only, over A's adjoining land to the field sold.

(b) A, the owner of two fields, sells one to B, and retains the other. The field retained was at the date of the sale used for agricultural purposes only and is inaccessible except by passing over the field sold to B. A is entitled to a right of way, for agricultural purposes only, over B's field to the field retained.

(c) A sells B a house with windows overlooking A's land, which A retains. The light which passes over A's land to the windows is necessary for enjoying the house as it was enjoyed when the sale took effect. B is entitled to the light, and A cannot afterwards obstruct it by building on his land.

(d) A sells B a house with windows overlooking A's land. The light passing over A's land to the windows is necessary for enjoying the house as it was enjoyed when the sale took effect. Afterwards A sells the land to C. Here C cannot obstruct the light by building on the land, for he takes it subject to the burdens to which it was subject in A's hands.

(e) A is the owner of a house and adjoining land. The house has windows overlooking the land. A simultaneously sells the house to B and the land to C. The light passing over the land is necessary for enjoying the house as it was enjoyed when the sale took effect. Here A impliedly grants B a right to the light, and C takes the land subject to the restriction that he may not build so as to obstruct such light.

(/f) A is the owner of a house and adjoining land. The house has windows overlooking the land. A, retaining the house, sells the land to B, without expressly reserving any easement. The light passing over the land is necessary for enjoying the house as it was enjoyed when the sale took effect. A is entitled to the light, and B cannot build on the land so as to obstruct such light.

(g) A, the owner of a house, sells B a factory built on adjoining land. B is entitled, as against A, to pollute the air, when necessary, with smoke and vapours from the factory.

(h) A, the owner of two adjoining houses, Y and Z, sells Y to B, and retains Z. B is entitled to the benefit of all the gutters and drains common to the two houses and necessary for enjoying Y as it was enjoyed when the sale took effect, and A is entitled to the benefit of all the gutters and drains common to the two houses and necessary for enjoying Z as it was enjoyed when the sale took effect.

(i) A, the owner of two adjoining buildings, sells one to B, retaining the other. B is entitled to a right to lateral support from A's building, and A is entitled to a right to lateral support from B's building.

(j) A, the owner of two adjoining buildings, sells one to B, and the other to C. C is entitled to lateral support from B's building, and B is entitled to lateral support from C's building.

(k) A grants land to B for the purpose of building a house thereon. B is entitled to such amount of lateral and subjacent support from A's land as is necessary for the safety of the house.

(l) Under the Land Acquisition Act, 1870,<sup>1</sup> a Railway Company compulsorily acquires a portion of B's land for the purpose of making a siding. The Company is entitled to such amount of lateral support from B's adjoining land as is essential for the safety of the siding. X of 187

(m) Owing to the partition of joint property. A becomes the owner of an upper room in a building, and B becomes the owner of the portion of the building immediately beneath it. A is entitled to such amount of vertical support from B's portion as is essential for the safety of the upper room.

(n) A lets a house and grounds to B for a particular business. B has no access to them other than by crossing A's land. B is entitled to a right of way over that land suitable to the business to be carried on by B in the house and grounds.

Direction of  
way of  
necessity.

14. When <sup>2</sup>[a right] to a way of necessity is created under section 13, the transferor, the legal representative of the testator, or the owner of the share over which the right is exercised, as the case may be, is entitled to set out the way; but it must be reasonably convenient for the dominant owner.

When the person so entitled to set out the way refuses or neglects to do so, the dominant owner may set it out.

Acquisition  
by prescrip-  
tion.

15. Where the access and use of light or air to and for any building have been peaceably enjoyed therewith, as an easement, without interruption, and for twenty years,

and where support from one person's land, or things affixed thereto, has been peaceably received by another person's land subjected to artificial pressure, or by things affixed thereto, as an easement, without interruption, and for twenty years,

and where a right of way or any other easement has been peaceably and openly enjoyed by any person claiming title thereto, as an easement, and as of right, without interruption, and for twenty years,

the right to such access and use of light or air, support or other easement shall be absolute.

Each of the said periods of twenty years shall be taken to be a period ending within two years next before the institution of the suit wherein the claim to which such period relates is contested.

<sup>1</sup> See now the Land Acquisition Act, 1894 (I of 1894), General Acts, Vol. IV.

<sup>2</sup> These words were substituted for "right" by the Amendment Act 1891 (XII of 1891), General Acts, Vol. IV.

*Explanation I.*—Nothing is an enjoyment within the meaning of this section when it has been had in pursuance of an agreement with the owner or occupier of the property over which the right is claimed, and it is apparent from the agreement that such right has not been granted as an easement, or, if granted as an easement, that it has been granted for a limited period, or subject to a condition on the fulfilment of which it is to cease.

*Explanation II.*—Nothing is an interruption within the meaning of this section unless where there is an actual cessation of the enjoyment by reason of an obstruction by the act of some person other than the claimant, and unless such obstruction is submitted to or acquiesced in for one year after the claimant has notice thereof and of the person making or authorizing the same to be made.

*Explanation III.*—Suspension of enjoyment in pursuance of a contract between the dominant and servient owners is not an interruption within the meaning of this section.

*Explanation IV.*—In the case of an easement to pollute water, the said period of twenty years begins when the pollution first prejudices perceptibly the servient heritage.

When the property over which a right is claimed under this section belongs to Government, this section shall be read as if, for the words “twenty years” the words “sixty years” were substituted.

#### *Illustrations.*

(a) A suit is brought in 1883 for obstructing a right of way. The defendant admits the obstruction, but denies the right of way. The plaintiff proves that the right was peaceably and openly enjoyed by him, claiming title thereto as an easement and as of right, without interruption, from 1st January 1862, to 1st January 1882. The plaintiff is entitled to judgment.

(b) In a like suit the plaintiff shows that the right was peaceably and openly enjoyed by him for twenty years. The defendant proves that for a year of that time the plaintiff was entitled to possession of the servient heritage as lessee thereof and enjoyed the right as such lessee. The suit shall be dismissed, for the right of way has not been enjoyed “as an easement” for twenty years.

(c) In a like suit the plaintiff shows that the right was peaceably and openly enjoyed by him for twenty years. The defendant proves that the plaintiff on one occasion during the twenty years had admitted that the user was not of right and asked his leave to enjoy the right. The suit shall be dismissed, for the right of way has not been enjoyed “as of right” for twenty years.

16. Provided that when any land upon, over or from which any easement has been enjoyed or derived has been held under or by virtue of any interest, for life or any term of years exceeding three years from the granting thereof the time of the enjoyment of such easement during the continuance of such

Exclusion in favour of reversioner of servient heritage.

interest or term shall be excluded in the computation of the said last-mentioned period of twenty years, in case the claim is, within three years next after the determination of such interest or term, resisted by the person entitled, on such determination, to the said land.

#### *Illustration.*

A sues for a declaration that he is entitled to a right of way over B's land. A proves that he has enjoyed the right for twenty-five years; but B shows that during ten of these years C had a life-interest in the land; that on C's death B became entitled to the land; and that within two years after C's death he contested A's claim to the right. The suit must be dismissed, as A, with reference to the provisions of this section, has only proved enjoyment for fifteen years.

Rights which cannot be acquired by prescription.

**17.** Easements acquired under section 15 are said to be acquired by prescription, and are called prescriptive rights

None of the following rights can be so acquired :—

- (a) a right which would tend to the total destruction of the subject of the right, or the property on which, if the acquisition were made, liability would be imposed;
- (b) a right to the free passage of light or air to an open space of ground;
- (c) a right to surface-water not flowing in a stream and not permanently collected in a pool, tank or otherwise;
- (d) a right to underground water not passing in a defined channel.

Customary easements.

**18.** An easement may be acquired in virtue of a local custom. Such easements are called customary easements.

#### *Illustrations.*

(a) By the custom of a certain village every cultivator of village-land is entitled, as such to graze his cattle on the common pasture. A having become the tenant of a plot of uncultivated land in the village breaks up and cultivates that plot. He thereby acquires an easement to graze his cattle in accordance with the custom.

(b) By the custom of a certain town no owner or occupier of a house can open a new window therein so as substantially to invade his neighbour's privacy. A builds a house in the town near B's house. A thereupon acquires an easement that B shall not open new windows in his house so as to command a view of the portions of A's house which are ordinarily excluded from observation, and B acquires a like easement with respect to A's house.

Transfer of dominant heritage and easement.

**19.** Where the dominant heritage is transferred or devolves, by act of parties or by operation of law, the transfer or devolution shall, unless a contrary intention appears be deemed to pass the easement to the person in whose favour the transfer or devolution takes place.

#### *Illustration.*

A has certain land to which a right of way is annexed. A lets the land to be for twenty years. The right of way vests in B and his legal representative so long as the lease continues.

## CHAPTER III.

## THE INCIDENTS OF EASEMENTS.

20. The rules contained in this chapter are controlled by any contract between the dominant and servient owners relating to the servient heritage, and by the provisions of the instrument or decree, if any, by which the easement referred to was imposed. Rules controlled by contract or title.

And, when any incident of any customary easement is inconsistent with such rules, nothing in this chapter shall affect such incident. Incidents of customary easements.

21. An easement must not be used for any purpose not connected with the enjoyment of the dominant heritage. Bar to use unconnected with enjoyment.

*Illustrations.*

(a) A, as owner of a farm Y, has a right of way over B's land to Y. Lying beyond Y, A has another farm Z, the beneficial enjoyment of which is not necessary for the beneficial enjoyment of Y. He must not use the easement for the purpose of passing to and from Z.

(b) A, as owner of a certain house, has a right of way to and from it. For the purpose of passing to and from the house, the right may be used, not only by A, but by the members of his family, his guests, lodgers, servants, workmen, visitors and customers; for this is a purpose connected with the enjoyment of the dominant heritage. So, if A lets the house he may use the right of way for the purpose of collecting the rent and seeing that the house is kept in repair.

22. The dominant owner must exercise his right in the mode which is least onerous to the servient owner; and, when the exercise of an easement can without detriment to the dominant owner be confined to a determinate part of the servient heritage, such exercise shall, at the request of the servient owner, be so confined. Exercise of easement. Confinement of exercise of easement.

*Illustrations.*

(a) A has a right of way over B's field. A must enter the way at either end and not at any intermediate point.

(b) A has a right annexed to his house to cut thatching-grass in B's swamp. A, when exercising his easement, must cut the grass so that the plants may not be destroyed.

23. Subject to the provisions of section 22, the dominant owner may from time to time, alter the mode and place of enjoying the easement, provided that he does not thereby impose any additional burden on the servient heritage. Right to alter mode of enjoyment.

*Exception.*—The dominant owner of a right of way cannot vary his line of passage at pleasure, even though he does not thereby impose any additional burden on the servient heritage.

*Illustrations.*

(a) A, the owner of a saw-mill, has a right to a flow of water sufficient to work the mill. He may convert the saw-mill into a corn-mill, provided that it can be worked by the same amount of water.

(b) A has a right to discharge on B's land the rain-water from the eaves of A's house. This does not entitle A to advance his eaves if, by so doing, he imposes a greater burden on B's land.

(c) A, as the owner of a paper mill, acquires a right to pollute a stream by pouring in the refuse-liquor produced by making in the mill paper from rags. He may pollute the stream by pouring in similar liquor produced by making in the mill paper by a new process from bamboos, provided that he does not substantially increase the amount or injuriously change the nature of the pollution.

(d) A, a riparian owner, acquires, as against the lower riparian owners, a prescriptive right to pollute a stream by throwing sawdust into it. This does not entitle A to pollute the stream by discharging into it poisonous liquor.

Right to do  
acts to secure  
enjoyment.

**124.** The dominant owner is entitled, as against the servient owner, to do all acts necessary to secure the full enjoyment of the easement; but such acts must be done at such time and in such manner as without detriment to the dominant owner, to cause the servient owner as little inconvenience as possible; and the dominant owner must repair, as far as practicable, the damage (if any) caused by the act to the servient heritage.

Accessory  
rights.

Rights to do acts necessary to secure the full enjoyment of an easement are called accessory rights.

#### *Illustrations.*

(a) A has an easement to lay pipes in B's land to convey water to A's cistern. A may enter and dig the land in order to mend the pipes, but he must restore the surface to its original state.

(b) A has an easement of a drain through B's land. The sewer with which the drain communicates is altered. A may enter upon B's land and alter the drain, to adapt it to the new sewer, provided that he does not thereby impose any additional burden on B's land.

(c) A, as owner of a certain house, has a right of way over B's land. The way is out of repair, or a tree is blown down and falls across it. A may enter on B's land and repair the way or remove the tree from it.

(d) A, as owner of a certain field, has a right of way over B's land. B renders the way impassable. A may deviate from the way and pass over the adjoining land of B, provided that the deviation is reasonable.

(e) A, as owner of a certain house, has a right of way over B's field. A may remove rocks to make the way.

(f) A has an easement of support from B's wall. The wall gives way. A may enter upon B's land and repair the wall.

(g) A has an easement to have his land flooded by means of a dam in B's stream. The dam is half swept away by an inundation. A may enter upon B's land and repair the dam.

Liability for  
expenses ne-  
cessary for  
preservation  
of easement.

**25.** The expenses incurred in constructing works, or making repairs, or doing any other act necessary for the use or preservation of an easement, must be defrayed by the dominant owner.

<sup>1</sup> But see s. 36, *infra*, as to the abatement of obstruction of easement.

126. Where an easement is enjoyed by means of an artificial work, the dominant owner is liable to make compensation for any damage to the servient heritage arising from the want of repair of such work. Liability for damage from want of repair.

27. The servient owner is not bound to do anything for the benefit of the dominant heritage, and he is entitled, as against the dominant owner, to use the servient heritage in any way consistent with the enjoyment of the easement: but he must not do any act tending to restrict the easement or to render its exercise less convenient. Servient owner not bound to do anything.

### *Illustrations.*

(a) A, as owner of a house, has a right to lead water and send sewage through B's land. B is not bound as servient owner to clear the watercourse or scum the sewer.

(b) A grants a right of way through his land to B as owner of a field. A may feed his cattle on grass growing on the way, provided that B's right of way is not thereby obstructed; but he must not build a wall at the end of his land so as to prevent B from going beyond it nor must he narrow the way so as to render the exercise of the right less easy than it was at the date of the grant.

(c) A, in respect of his house, is entitled to an easement of support from B's wall. B is not bound as servient owner to keep the wall standing and in repair. But he must not pull down or weaken the wall so as to make it incapable of rendering the necessary support.

(d) A, in respect of his mill, is entitled to a watercourse through B's land. B must not drive stakes so as to obstruct the watercourse.

(e) A, in respect of his house, is entitled to a certain quantity of light passing over B's land. B must not plant trees so as to obstruct the passage to A's windows of that quantity of light.

28. With respect to the extent of easements and the mode of their enjoyment, the following provisions shall take effect:— Extent of easements.

An easement of necessity is co-extensive with the necessity as it existed when the easement was imposed. Easement of necessity.

The extent of any other easement and the mode of its enjoyment must be fixed with reference to the probable intention of the parties, and the purpose for which the right was imposed or acquired. Other easements.

In the absence of evidence as to such intention and purpose— Right of way.

(a) a right of way of any one kind does not include a right of way of any other kind :

(b) the extent of a right to the passage of light or air to a certain window, door or other opening, imposed by a testamentary or non-testamentary instrument, is the quantity of light or air that entered the opening at the time the testator died or the non-testamentary instrument was made : Right to light or air acquired by grant.

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<sup>1</sup> But see s. 50, *infra*, as to extinguishment or suspension of easement.

Prescriptive right to light or air.

(c) the extent of a prescriptive right to the passage of light or air to a certain window, door or other opening is that quantity of light or air which has been accustomed to enter that opening during the whole of the prescriptive period irrespectively of the purposes for which it has been used :

Prescriptive right to pollute air or water.

(d) the extent of a prescriptive right to pollute air or water is the extent of the pollution at the commencement of the period of user or completion of which the right arose : and

Other prescriptive rights.

(e) the extent of every other prescriptive right and the mode of its enjoyment must be determined by the accustomed user of the right.

Increase of easement.

29. The dominant owner cannot, by merely altering or adding to the dominant heritage, substantially increase an easement.

Where an easement has been granted or bequeathed so that its extent shall be proportionate to the extent of the dominant heritage, if the dominant heritage is increased by alluvion, the easement is proportionately increased and, if the dominant heritage is diminished by diluvion, the easement is proportionately diminished.

Save as aforesaid, no easement is affected by any change in the extent of the dominant or the servient heritage.

#### *Illustrations.*

(a) A, the owner of a mill, has acquired a prescriptive right to divert to his mill part of the water of a stream. A alters the machinery of his mill. He cannot thereby increase his right to divert water.

(b) A has acquired an easement to pollute a stream by carrying on a manufacture on its banks by which a certain quantity of foul matter is discharged into it. A extends his works and thereby increases the quantity discharged. He is responsible to the lower riparian owners for injury done by such increase.

(c) A, as the owner of a farm, has a right to take, for the purpose of manuring his farm, leaves which have fallen from the trees on B's land. A buys a field and adds it to his farm. A is not thereby entitled to take leaves to manure this field.

Partition of dominant heritage.

30. Where a dominant heritage is divided between two or more persons the easement becomes annexed to each of the shares, but not so as to increase substantially the burden on the servient heritage : provided that such annexation is consistent with the terms of the instrument, decree or revenue proceeding (if any) under which the division was made, and, in the case of prescriptive rights, with the user during the prescriptive period.

#### *Illustrations.*

(a) A house to which a right of way by a particular path is annexed is divided into two parts, one of which is granted to A, the other to B. Each is entitled, in respect of his part, to a right of way by the same path.



(b) A house to which is annexed the right of drawing water from a well to the extent of fifty buckets a day is divided into two distinct heritages, one of which is granted to A, the other to B. A and B are each entitled, in respect of his heritage, to draw from the well fifty buckets a day; but the amount drawn by both must not exceed fifty buckets a day.

(c) A, having in respect of his house an easement of light, divides the house into three distinct heritages. Each of these continues to have the right to have its windows unobstructed.

31. In the case of excessive user of an easement the servient owner may, without prejudice to any other remedies to which he may be entitled, obstruct the user, but only on the servient heritage: provided that such user cannot be obstructed when the obstruction would interfere with the lawful enjoyment of the easement.

Obstruction  
in case of ex-  
cessive user.

*Illustration.*

A, having a right to the free passage over B's land of light to four windows six feet by four, increases their size and number. It is impossible to obstruct the passage of light to the new windows without also obstructing the passage of light to the ancient windows. B cannot obstruct the excessive user.

## CHAPTER IV.

### THE DISTURBANCE OF EASEMENTS.

32. The owner or occupier of the dominant heritage is entitled to enjoy the easement without disturbance by any other person.

Right to  
enjoyment  
without  
disturbance.

*Illustration.*

A, as owner of a house, has a right of way over B's land. C unlawfully enters on B's land, and obstructs A in his right of way. A may sue C for compensation, not for the entry but for the obstruction.

33. The owner of any interest in the dominant heritage, or the occupier of such heritage, may institute a suit for compensation for the disturbance of the easement or of any right accessory thereto: provided that the disturbance has actually caused substantial damage to the plaintiff.

Suit for dis-  
turbance of  
easement.

*Explanation I.*—The doing of any act likely to injure the plaintiff by affecting the evidence of the easement, or by materially diminishing the value of the dominant heritage, is substantial damage within the meaning of this section and section 34.

*Explanation II.*—Where the easement disturbed is a right to the free passage of light passing to the openings in a house, no damage is substantial within the meaning of this section unless it falls within the first Explanation, or interferes materially with the physical comfort of the plaintiff, or prevents him from carrying on his accustomed business in the dominant heritage as beneficially as he had done previous to instituting the suit.

*Explanation III.*—Where the easement disturbed is a right to the free passage of air to the openings in a house, damage is substantial within the meaning of this section if it interferes materially with the physical comfort of the plaintiff, though it is not injurious to his health.

*Illustrations.*

(a) A places a permanent obstruction in a path over which B, as tenant of C's house has a right of way. This is substantial damage to C, for it may affect the exercise of his reversionary right to the easement.

(b) A, as owner of a house, has a right to walk along one side of B's house. B builds a verandah overhanging the way about ten feet from the ground, and so as not to occasion any inconvenience to foot-passengers using the way. This is not substantial damage to A.

When cause of action arises for removal or support.

**34.** The removal of the means of support to which a dominant owner is entitled does not give rise to a right to recover compensation unless and until substantial damage<sup>1</sup> is actually sustained.

Injunction to restrain disturbance.

**35.** Subject to the provisions of the Specific Relief Act, 1877," sections 1 of 1887, 52 to 57 (both inclusive), an injunction may be granted to restrain the disturbance of an easement—

(a) if the easement is actually disturbed,—when compensation for such disturbance might be recovered under this Chapter :

(b) if the disturbance is only threatened or intended,—when the act threatened or intended must necessarily, if performed, disturb the easement.

Abatement of obstruction of easement.

**36.** Notwithstanding the provisions of section 24, the dominant owner cannot himself abate a wrongful obstruction of an easement.

## CHAPTER V.

### THE EXTINCTION, SUSPENSION AND REVIVAL OF EASEMENTS.

Extinction by dissolution of right of servient owner.

**37.** When, from a cause which preceded the imposition of an easement the person by whom it was imposed ceases to have any right in the servient heritage, the easement is extinguished.

*Exception.*—Nothing in this section applies to an easement lawfully imposed by a mortgagor in accordance with section 10.

*Illustrations.*

(a) A transfers Sultanpur to B on condition that he does not marry C. B imposes an easement on Sultanpur. Then B marries C. B's interest in Sultanpur ends, and with it the easement is extinguished.

<sup>1</sup> As to meaning of "substantial damage," see s. 33, Expl. I, *supra*.

<sup>2</sup> General Acts, Vol. II.

(b) A, in 1860, let Sultanpur to B for thirty years from the date of the lease. B in 1861 imposes an easement on the land in favour of C, who enjoys the easement peaceably and openly as an easement without interruption for twenty-nine years. B's interest in Sultanpur then ends, and with it C's easement.

(c) A and B, tenants of C, have permanent transferable interests in their respective holdings. A imposes on his holding an easement to draw water from a tank for the purpose of irrigating B's land. B enjoys the easement for twenty years. Then A's rent falls into arrear and his interest is sold. B's easement is extinguished.

(d) A mortgages Sultanpur to B, and lawfully imposes an easement on the land in favour of C in accordance with the provisions of section 10. The land is sold to D in satisfaction of the mortgage-debt. The easement is not thereby extinguished.

**38.** An easement is extinguished when the dominant owner releases it, Extinction  
by release.  
expressly or impliedly, to the servient owner.

Such release can be made only in the circumstances and to the extent in and to which the dominant owner can alienate the dominant heritage.

An easement may be released as to part only of the servient heritage.

*Explanation I.*—An easement is impliedly released—

(a) where the dominant owner expressly authorizes an act of a permanent nature to be done on the servient heritage, the necessary consequence of which is to prevent his future enjoyment of the easement, and such act is done in pursuance of such authority ;

(b) where any permanent alteration is made in the dominant heritage of such a nature as to show that the dominant owner intended to cease to enjoy the easement in future.

*Explanation II.*—Mere non-user of an easement is not an implied release within the meaning of this section.

#### *Illustrations.*

(a) A, B and C are co-owners of a house to which an easement is annexed. A without the consent of B and C, releases the easement. This release is effectual only as against A and his legal representative.

(b) A grants B an easement over A's land for the beneficial enjoyment of his house. B assigns the house to C. B then purports to release the easement. The release is ineffectual.

(c) A, having the right to discharge his eavesdroppings into B's yard, expressly authorizes B to build over this yard to a height which will interfere with the discharge. B builds accordingly. A's easement is extinguished to the extent of the interference.

(d) A, having an easement of light to a window, builds up that window with bricks and mortar so as to manifest an intention to abandon the easement permanently. The easement is impliedly released.

(e) A, having a projecting roof by means of which he enjoys an easement to discharge eavesdroppings on B's land, permanently alters the roof, so as to direct the rain-water into a different channel and discharge it on C's land. The easement is impliedly released.

**39.** An easement is extinguished when the servient owner, in exercise of a Extinction by  
revocation.  
power reserved in this behalf, revokes the easement.

**Extinction on expiration of limited period or happening of dissolving condition.** **40.** An easement is extinguished where it has been imposed for a limited period, or acquired on condition that it shall become void on the performance or non-performance of a specified act, and the period expires or the condition is fulfilled.

**Extinction on termination of necessity.** **41.** An easement of necessity is extinguished when the necessity comes to an end.

#### *Illustration.*

A grants B a field inaccessible except by passing over A's adjoining land. B afterwards purchases a part of that land over which he can pass to his field. The right of way over A's land which B had acquired is extinguished.

**Extinction of useless easement.** **42.** An easement is extinguished when it becomes incapable of being, at any time and under any circumstances, beneficial to the dominant owner.

**Extinction by permanent change in dominant heritage.** **43.** Where, by any permanent change in the dominant heritage, the burden on the servient heritage is materially increased and cannot be reduced by the servient owner without interfering with the lawful enjoyment of the easement, the easement is extinguished, unless—

- (a) it was intended for the beneficial enjoyment of the dominant heritage, to whatever extent the easement should be used; or
- (b) the injury caused to the servient owner by the change is so slight that no reasonable person would complain of it; or
- (c) the easement is an easement of necessity.

Nothing in this section shall be deemed to apply to an easement entitling the dominant owner to support of the dominant heritage.

**Extinction on permanent alteration of servient heritage by superior force.** **44.** An easement is extinguished where the servient heritage is by superior force so permanently altered that the dominant owner can no longer enjoy such easement:

Provided that, where a way of necessity is destroyed by superior force, the dominant owner has a right to another way over the servient heritage: and the provisions of section 14 apply to such way.

#### *Illustrations.*

(a) A grants to B, as the owner of a certain house, a right to fish in a river running through A's land. The river changes its course permanently and runs through C's land. B's easement is extinguished.

(b) Access to a path over which A has right of way is permanently cut off by an earthquake. A's right is extinguished.

**Extinction by destruction of either heritage.** **45.** An easement is extinguished when either the dominant or the servient heritage is completely destroyed.

#### *Illustrations.*

A has a right of way over a road running along the foot of a sea-cliff. The road is washed away by a permanent encroachment of the sea. A's easement is extinguished.

46. An easement is extinguished when the same person becomes entitled to the absolute ownership of the whole of the dominant and servient heritages. Extinction  
by unity of  
ownership.

*Illustrations.*

(a) A, as the owner of a house, has a right of way over B's field. A mortgages his house, and B mortgages his field, to C. Then C forecloses both mortgages and becomes thereby absolute owner of both house and field. The right of way is extinguished.

(b) The dominant owner acquires only part of the servient heritage: the easement is not extinguished, except in the case illustrated in section 41.

(c) The servient owner acquires the dominant heritage in connection with a third person: the easement is not extinguished.

(d) The separate owners of two separate dominant heritages jointly acquire the heritage which is servient to the two separate heritages: the easements are not extinguished.

(e) The joint owners of the dominant heritage jointly acquire the servient heritage. the easement is extinguished.

(f) A single right of way exists over two servient heritages for the beneficial enjoyment of a single dominant heritage. The dominant owner acquires one only of the servient heritages. The easement is not extinguished.

(g) A has a right of way over B's road. B dedicates the road to the public. A's right of way is not extinguished.

47. A continuous easement is extinguished when it totally ceases to be enjoyed as such for an unbroken period of twenty years. Extinction  
by non-enjoy-  
ment.

A discontinuous easement is extinguished when, for a like period, it has not been enjoyed as such.

Such period shall be reckoned in the case of a continuous easement, from the day on which its enjoyment was obstructed by the servient owner, or rendered impossible by the dominant owner; and, in the case of a discontinuous easement, from the day on which it was last enjoyed by any person as dominant owner:

1877. Provided that, if, in the case of a discontinuous easement, the dominant owner, within such period, registers, under the Indian Registration Act, 1877,<sup>1</sup> a declaration of his intention to retain such easement, it shall not be extinguished until a period of twenty years has elapsed from the date of the registration.

Where an easement can be legally enjoyed only at a certain place or at certain times, or between certain hours, or for a particular purpose, its enjoyment during the said period at another place, or at other times, or between other hours, or for another purpose, does not prevent its extinction under this section.

The circumstance that, during the said period, no one was in possession of the servient heritage, or that the easement could not be enjoyed, or that a

<sup>1</sup> See now the Indian Registration Act, 1908 (XVI of 1908), General Acts, Vol. VI.

right accessory thereto was enjoyed, or that the dominant owner was not aware of its existence, or that he enjoyed it in ignorance of his right to do so, does not prevent its extinction under this section.

An easement is not extinguished under this section—

- (a) where the cessation is in pursuance of a contract between the dominant and servient owner;
- (b) where the dominant heritage is held in co-ownership, and one of the co-owners enjoys the easement within the said period, or
- (c) where the easement is a necessary easement.

Where several heritages are respectively subject to rights of way for the benefit of a single heritage, and the ways are continuous, such rights shall for the purposes of this section, be deemed to be a single easement.

#### *Illustration.*

A has, as annexed to his house, rights of way from the high road thither over the heritages X and Z and the intervening heritage Y. Before the twenty years expire, A exercises his right of way over X. His rights of way over Y and Z are not extinguished.

Extinction of  
accessory  
rights.

**48.** When an easement is extinguished, the rights (if any) accessory thereto are also extinguished.

#### *Illustration.*

A has an easement to draw water from B's well. As accessory thereto, he has a right of way over B's land to and from the well. The easement to draw water is extinguished under section 47. The right of way is also extinguished.

Suspension of  
easement.

**49.** An easement is suspended when the dominant owner becomes entitled to possession of the servient heritage for a limited interest therein, or when the servient owner becomes entitled to possession of the dominant heritage for a limited interest therein.

Servient  
owner not  
entitled to  
require con-  
tinuance.

**50.** The servient owner has no right to require that an easement be continued; and, notwithstanding the provisions of section 26, he is not entitled to compensation for damage caused to the servient heritage in consequence of the extinguishment or suspension of the easement, if the dominant owner has given to the servient owner such notice as will enable him, without unreasonable expense, to protect the servient heritage from such damage.

Compensation  
for damage  
caused by  
extinguish-  
ment or sus-  
pension.

Where such notice has not been given, the servient owner is entitled to such compensation for damage caused to the servient heritage in consequence of such extinguishment or suspension.

#### *Illustration.*

A, in exercise of an easement, diverts to his canal the water of B's stream. The diversion continues for many years, and during that time the bed of the stream partly fills up. A then abandons his easement, and restores the stream to its ancient course. B's land is

consequently flooded. B sues A for compensation for the damage caused by the flooding. It is proved that A gave B a month's notice of his intention to abandon the easement, and that such notice was sufficient to enable B, without unreasonable expense, to have prevented the damage. The suit must be dismissed.

51. An easement extinguished under section 45 revives (a) when the destroyed heritage is, before twenty years have expired, restored by the deposit of alluvion; (b) when the destroyed heritage is a servient building and before twenty years have expired such building is rebuilt upon the same site; and (c) when the destroyed heritage is a dominant building and before twenty years have expired such building is rebuilt upon the same site and in such a manner as not to impose a greater burden on the servient heritage. Revival of easements.

An easement extinguished under section 46 revives when the grant or bequest by which the unity of ownership was produced is set aside by the decree of a competent Court. A necessary easement extinguished under the same section revives when the unity of ownership ceases from any other cause.

A suspended easement revives if the cause of suspension is removed before the right is extinguished under section 47.

#### *Illustration.*

A, as the absolute owner of field Y, has a right of way <sup>way</sup> ~~way~~ over B's field Z. A obtains from B a lease of Z for twenty years. The easement is suspended so long as A remains lessee of Z. But when A assigns the lease to C, or surrenders it to B, the right of way revives.

## CHAPTER VI.

### LICENSES.

52. Where one person grants to another, or to a definite number of other persons, a right to do, or continue to do, in or upon the immoveable property of the grantor, something which would, in the absence of such right, be unlawful, and such right does not amount to an easement or an interest in the property, the right is called a license. "License" defined.

53. A license may be granted by anyone in the circumstances and to the extent in and to which he may transfer his interests in the property affected by the license. Who may grant licenses.

54. The grant of a license may be express or implied from the conduct of the grantor; and an agreement which purports to create an easement, but is ineffectual for that purpose, may operate to create a license. Grant may be express or implied.

55. All licenses necessary for the enjoyment of any interest, or the exercise of any right, are implied in the constitution of such interest or right. Such licenses are called accessory licenses. Accessory licenses are implied by law.

*Illustration.*

A sells the trees growing on his land to B. B is entitled to go on the land and take away the trees.

License when transferable.

56. Unless a different intention is expressed or necessarily implied, a license to attend a place of public entertainment may be transferred by the licensee ; but, save as aforesaid, a license cannot be transferred by the licensee or exercised by his servants or agents.

(a) A grants B a right to walk over A's field whenever he pleases. The right is not annexed to any immovable property of B. The right cannot be transferred.

(b) The Government grant B a license to erect and use temporary grain-sheds on Government land. In the absence of express provision to the contrary, B's servants may enter on the land for the purpose of erecting sheds, erect the same, deposit grain therein and remove grain therefrom.

Grantor's duty to disclose defects.

57. The grantor of a license is bound to disclose to the licensee any defect in the property affected by the license, likely to be dangerous to the person or property of the licensee of which the grantor is, and the licensee is not, aware.

Grantor's duty not to render property unsafe. Grantor's transferee not bound by license. License when revocable.

58. The grantor of a license is bound not to do anything likely to render the property affected by the license dangerous to the person or property of the licensee.

59. When the grantor of the license transfers the property affected thereby, the transferee is not as such bound by the license.

60. A license may be revoked by the grantor, unless—

(a) it is coupled with a transfer of property and such transfer is in force :

(b) the licensee, acting upon the license, has executed a work of a permanent character and incurred expenses in the execution.

Revocation express or implied.

61. The revocation of a license may be express or implied.

*Illustration.*

(a) A, the owner of a field, grants a license to B to use a path across it. A, with intent to revoke the license, locks a gate across the path. The license is revoked.

(b) A, the owner of a field, grants a license to B to stack hay on the field. A lets or sells the field to C. The license is revoked.

License when deemed revoked.

62. A license is deemed to be revoked—

(a) when, from a cause preceding the grant of it, the grantor ceases to have any interest in the property affected by the license ;

(b) when the licensee releases it, expressly or impliedly, to the grantor or his representative :

(c) where it has been granted for a limited period, or acquired on condition that it shall become void on the performance or non-performance



mance of a specified act, and the period expires, or the condition is fulfilled :

- (d) where the property affected by the license is destroyed or by superior force so permanently altered that the licensee can no longer exercise his right :
- (e) where the licensee becomes entitled to the absolute ownership of the property affected by the license :
- (f) where the license is granted for a specified purpose and the purpose is attained, or abandoned, or becomes impracticable :
- (g) where the license is granted to the licensee as holding a particular office, employment, or character, and such office, employment, or character ceases to exist :
- (h) where the license totally ceases to be used as such for an unbroken period of twenty years, and such cessation is not in pursuance of a contract between the grantor and the licensee :
- (i) in the case of an accessory license, when the interest or right to which it is accessory ceases to exist.

63. Where a license is revoked, the licensee is entitled to a reasonable time to leave the property affected thereby and to remove any goods which he has been allowed to place on such property. Licensee's right on revocation.

64. Where a license has been granted for a consideration, and the licensee, without any fault of his own, is evicted by the grantor before he has fully enjoyed, under the license, the right for which he contracted, he is entitled to recover compensation from the grantor. Licensee's right on eviction.

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## THE CENTRAL PROVINCES LOCAL SELF-GOVERNMENT ACT, 1883 (I OF 1883).

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ACT No. I of 1883.<sup>1</sup>

[THE CENTRAL PROVINCES LOCAL SELF-GOVERNMENT ACT, 1883.]

[12th January, 1883.]

## An Act to make better provision for local self-government in the Central Provinces.

## Preamble.

WHEREAS provision has been made by the Central Provinces Land-revenue Act, 1881,<sup>2</sup> for the appointment of mukaddams for the several villages in the territories administered by the Chief Commissioner of the Central Provinces ;

And whereas provision has been made in the settlement-records of the districts in those territories for the levy of rates for the maintenance of roads, schools and the district post, and it is proposed that the Government shall, from time to time, assign certain sums, or the income accruing from certain sources for expenditure on objects tending to promote the welfare and improvement of the inhabitants of each of those districts ;

It is hereby enacted as follows :—

*Preliminary.*

## Short title.

1. This Act may be called the Central Provinces Local Self-government Act, 1883.

## Local extent.

It shall extend only to the territories for the time being administered by the Chief Commissioner of the Central Provinces ; and

Commence-  
ment.

It shall come into force at once.

## Definitions.

2. In this Act—

“ Assistant Commissioner ” includes an Extra Assistant Commissioner in any district where there is no Assistant Commissioner :

“ financial year ” means the year commencing on the first day of April :

“ village ” includes any tract of land which, at the last settlement of that land, has been recognized as a village, or which the Chief Commissioner may,

<sup>1</sup> The Bill for the introduction of which leave was obtained was entitled “ a Bill to provide for the as-sessment of provincial cesses in the Central Provinces,” see Proceedings in Council, dated 11th May, 1881, Gazette of India, 1881, Supplement, p. 523. It was introduced as a Bill “ to provide for the levy on land of rates to be applied to local purposes ” ; for Statement of Objects and Reasons to this Bill, see Gazette of India, 1882, Pt. V, p. 2. For provisional draft of the Bill, in the form in which it was eventually passed, see *ibid.*, p. 905 ; the Objects and Reasons for this change in the form of the Bill are explained in the letter from the Legislative Department to the Chief Commissioner of the Central Provinces published in Gazette of India, 1882, Supplement, p. 1541. For Proceedings in Council, see *ibid.*, 1882, Supplement, p. 1705 ; *ibid.*, 1883, Supplement, p. 76.

<sup>2</sup> See now the Central Provinces Land-revenue Act, 1917 (C. P. Act II of 1917), *infra*, which has repealed and re-enacted Act XVIII of 1881.

of from time to time, declare to be a village for the purposes of the Central Provinces Land-revenue Act, 1881<sup>1</sup> : and

“mukaddam” means the executive headman of a village appointed under that Act.<sup>2</sup>

#### *Formation of Local Administrative Areas.*

3. (1) The Chief Commissioner shall, by order in writing, for the purposes of the local self-government of each district, aggregate the several villages thereof in circles and the circles in groups.<sup>3</sup>

(2) There shall be excluded from the circles and groups formed under this section such portions of the district as are for the time being included in the limits of a military cantonment<sup>4</sup> or of a town having a municipal committee.<sup>5</sup>

(3) The Chief Commissioner may, from time to time, by order in writing, vary any order made under this section.

#### *Constitution of Local Administrative Bodies.*

4. There shall be established for each group of circles a Local Board<sup>6</sup> having authority over that group, and for each district a District Council<sup>6</sup> having authority over the entire district, except such portions thereof as are for the time being included in the limits of a military cantonment<sup>4</sup> or of a town having a municipal committee.<sup>5</sup>

5. The Local Board for a group of circles shall consist of—

- (a) representative members, one or more for each circle, being the mukaddam or mukaddams of a village or villages within that circle ;
- (b) representatives, one or more, of mercantile classes or professions, resident within the area comprised in the group, and elected by, or appointed on behalf of, those classes or professions ; and
- (c) such person or persons, if any, not exceeding in number one-third of the Board, as the Chief Commissioner may from time to time appoint.

6. The District Council of a district shall consist of—

- (a) representatives of groups of circles within the district, one or more for each group, being a member or members of, and elected by, the Local Board for that group ;

<sup>1</sup> See now s. 2 (20) of the Central Provinces Land-revenue Act, 1917 (C. P. Act II of 1917), *infra*, which has repealed and re-enacted Act XVIII of 1881.

<sup>2</sup> See now s. 2 (10) of *ibid.*

<sup>3</sup> For list of circles and groups so formed, see the Central Provinces Local Rules and Orders.

<sup>4</sup> As to cantonments, see the Cantonments Act, 1910 (XV of 1910), General Acts, Vol. VII.

<sup>5</sup> As to municipalities, see the Central Provinces Municipal Act, 1903 (XVI of 1903), *infra*, p. 255.

<sup>6</sup> For notifications establishing Local Boards, see the Central Provinces Local Rules and Orders, and for a list of all such Boards and District Councils, see *ibid.*

- (b) representatives, one or more, of mercantile classes or professions, resident within the district, and elected by, or appointed on behalf of, those classes or professions; and
- (c) such person or persons, if any, not exceeding in number one-third of the Council, as the Chief Commissioner may from time to time appoint.

Power to set aside election or remove member in case of conviction of offence.

7. (1) If a person convicted by a Criminal Court of an offence the commission of which in the opinion of the Chief Commissioner shows him to be unfit to be a member of a Local Board or District Council is elected as such member, the Chief Commissioner may declare his election void.

(2) If a member of such a Board or Council is so convicted of any such offence, the Chief Commissioner may declare his office to be vacant.

Incorporation of District Council.

8. Every District Council shall be a body corporate by the name of the District Council of its district; shall have perpetual succession and a common seal, with power to acquire and hold property, both moveable and immoveable; to transfer any moveable property, and, with the previous approval in writing of the Deputy Commissioner, any immoveable property, held by it, and to contract and to do all other things necessary for the purposes of its constitution; and may sue and be sued in its corporate name.

#### *Duties of District Councils and Local Boards.<sup>1</sup>*

Matters to be administered by Board and Council.

9. The following matters shall, subject to such exceptions as the Chief Commissioner may, from time to time, by order in writing, make, be under the control and administration of the District Council and of the Local Boards<sup>1</sup> within the areas subject respectively to their authority:—

- (a) the construction, repair and maintenance of roads and other means of communication:
- (b) the management, maintenance and visiting of schools, hospitals, dispensaries, markets, rest-houses, saráis and other public institutions, and the construction and repair of all buildings connected with these institutions:
- (c) the construction and repair of public wells, tanks and water-works, the supply of water from them and from other sources, and the preservation from pollution of water for drinking and cooking purposes:
- (d) the planting and preservation of trees on public ground:
- (e) the establishment and maintenance of relief-works in time of famine or scarcity:

<sup>1</sup> As to suspension of authority of District Council and Local Boards in villages under the operation of the Central Provinces Village Sanitation Act, 1902 (XI of 1902), see s. 12 of that Act, *infra*, p. 240.

1871. (f) the establishment and management of pounds, including, where the Cattle-trespass Act, 1871,<sup>1</sup> is in operation, all the functions of the Local Government and the Magistrate of the District<sup>2</sup> under sections 4, 5, 6, 7, 12, 14 and 17, and clause (a) of section 18, of that Act :
- of 1878. (g) the management of such public ferries as may be entrusted to their charge under section 7A<sup>3</sup> of the Northern India Ferries Act, 1878, as amended by this Act :
- (h) any other local works or measures likely to promote the health, comfort or convenience of the public : and
- (i) the maintenance of any building, or other property, vested under this Act in the District Council.

*Relations of Local Boards to District Councils.*

10. (1) A Local Board as the agent of, and subject to the control of, the District Council, shall, within the area subject to its authority, have the control and administration of, and be responsible for, all the matters specified in section 9 except such of those matters as the District Council may think fit to take under its direct control and administration, and such as the Chief Commissioner may have excepted by order under section 9. Duties of Local Board.

(2) It shall be the duty of the District Council to enforce the responsibility imposed on a Local Board by sub-section (1).

11. Every Local Board shall submit annually to the District Council of its district, on or before such date as the Council may appoint in this behalf, a statement of the requirements, and an estimate of the probable expenditure of the Board for the coming financial year, and a report of its proceedings, and an account of its receipts and expenditure for the past financial year ; and shall also submit to the Council such other reports, if any, as the Council may, from time to time, require. Reports, estimates and accounts to be submitted by Board to Council.

12. A Local Board shall not incur expenses or undertake liabilities to any amount exceeding the limit imposed by the District Council of its district. Limits on expenditure of Local Board.

13. A District Council may, by a majority of two-thirds of its whole number, reverse or vary any resolution of a Local Board for an area within its district. Power for Council to reverse or vary resolution of Board.

14. (1) If the Local Board makes default in the performance of any duty imposed on it by or under this Act, the District Council may, by order in writing, fix a period for the performance of the duty. Power for Council to provide for performance of duty in default of Board.

(2) If the duty is not performed within that period, the Council may appoint some person to perform it, and may provide for the expenses of, and

<sup>1</sup> General Acts, Vol. II.

<sup>2</sup> Read District Magistrate, see s. 3 of the Code of Criminal Procedure, 1898 (Act V of 1898), General Acts, Vol. V.

<sup>3</sup> *Supra*, p. 60.

incidental to, its performance out of the funds appropriated to or for the purposes of the Local Board.

Power to  
declare Local  
Boards  
independent.

15. (1) The Chief Commissioner may, from time to time, by notification<sup>1</sup> in the official Gazette, declare any Local Board established under this Act to be an independent board, and may in like manner cancel such notification.

(2) A Local Board so declared shall, while the notification is in force, so far as may be, have within the area subject to its authority the powers, and perform the duties, of a District Council, under this Act, and shall cease to be the agent of, and under the control of, the District Council.

#### *School Committees.*

Appointment  
of school  
committees.

16. (1) Every District Council, and every Local Board as the agent of, and subject to the control of, its District Council, may from time to time appoint school committees for the several schools under its control and administration, and shall, as far as may be practicable, conduct the management of any school for which such a committee has been appointed through that committee.

(2) All school committees existing within the area subject to the authority of any District Council or Local Board at the time that Council or Board comes into existence shall be deemed to have been appointed under this section.

#### *Joint Committees.*

Joint  
committee  
of two  
or more  
Local  
Boards.

17. (1) A Local Board may, from time to time, concur with any other Local Board or Boards for an area or areas in the same district, in appointing, out of their respective bodies, joint committees for any purpose in which they are jointly interested, and in delegating to any such committee any power which might be exercised by either or any of the Local Boards, and in framing and modifying regulations as to the proceedings of any such joint committee.

(2) If any dispute arises between two or more Local Boards acting under this section, the decision thereon of the District Council of their district shall be final.

Joint  
committee of  
two or more  
District  
Councils.

18. (1) A District Council may, from time to time, concur with any other District Council or District Councils in appointing, out of their respective bodies, joint committees for any purpose in respect of which they are jointly interested, and in delegating to any such committee any power which might be exercised by any or either of the District Councils, and in framing and modifying regulations as to the proceedings of any such joint committee.

(2) If any dispute arises between two or more District Councils acting under this section, the decision thereon of the Commissioner, if the Councils are in the same division, or, if they are not in the same division, of the Chief Commissioner, shall be final.

<sup>1</sup> For notification under s. 15, see Central Provinces Local Rules and Orders.



*Conduct of Business.*

19. (1) Every District Council and Local Board shall, from time to time, Chairman. elect one of its members to be chairman for one financial year at all meetings at which he is present.

(2) If the chairman so elected dies, resigns or becomes incapable of acting, the Council or Board shall elect another of its members to be chairman for the period during which the person so dying, resigning or becoming incapable would have been entitled to continue in office, and no longer.

(3) An election under the foregoing provisions of this section shall not be valid until it is approved, in the case of the chairman of a Local Board, by the Commissioner of the division, and, in the case of the chairman of a District Council, by the Chief Commissioner.

(4) If when any meeting is held the office of chairman is vacant or the chairman is absent from the meeting, the members present shall appoint one of their number to be chairman thereat.

20. (1) Every District Council and Local Board may, from time to time, Regulations make regulations as to the time and place of its meetings, the conduct of pro- as to meet- ceedings at meetings, and the appointment, powers and proceedings of com- proceedings. mittees :

(2) Provided that every regulation made under this section must be consistent with this Act and with any rules made by the Chief Commissioner under this Act.

*Officers and Servants.*

21. (1) Every District Council may employ such officers and servants as Employment of officers and servants. may be necessary and proper for the efficient execution of its duties, and may assign to them such pay, leave-allowances, gratuities and pensions as it thinks fit.

(2) A Local Board may employ such officers and servants, and may assign to them such pay, leave-allowances, gratuities and pensions, as the District Council of its district thinks requisite and sufficient.

(3) In the case of an officer lent by the Government, the Council or Board may contribute to any leave-allowance, gratuity or pension which he may become entitled to in accordance with the rules for the time being in force.

(4) If, in the opinion of the Commissioner,—

(a) the number of persons employed by a Council or Board under this section, or the pay, allowances, gratuities or pensions assigned by the Council or Board to those persons, or to any particular person, is or are excessive, or

(b) any such person is unfit for his employment,

the Council or Board shall, on the requirement of the Commissioner, reduce the number or remuneration, or, as the case may be, dismiss the unfit person.

*Testing of Property.*

Power to vest  
property in  
District  
Council.

22. The Chief Commissioner may, from time to time, by notification in the official Gazette, direct that any property, moveable or immovable, which is vested in Her Majesty and is situate in the Central Provinces, shall vest in any District Council ; and thereupon that property shall vest in that Council for the purposes of this Act, subject to all rights over, and all debts, liabilities and obligations (if any) affecting that property.

*Finance.*

Constitution,  
custody and  
application of  
District Fund.

23. (1) There shall be formed for each district a Fund to be called the District Fund, and there shall be placed to the credit thereof—

- (a) the net proceeds (after deducting the expenses of collection) of all rates levied in accordance with settlement-records in that district for the maintenance of roads or schools ;
- (b) such portion (if any) of the surplus of the rates so levied for the maintenance of the district post as the Chief Commissioner may, from time to time, assign in this behalf ;
- (c) the surplus accruing in that district under section 18 of the Cattle-trespass Act, 1871<sup>1</sup> ; 1 of 1871.
- (d) the proceeds of public ferries payable into the District Fund of that district under section 7A of the <sup>2</sup>Northern India Ferries Act, XVII of 1878, as amended by this Act ;
- (e) all sums assigned, from time to time, by the Chief Commissioner for expenditure on local works in that district, under section 5<sup>3</sup> of the Central Provinces Additional Rates Act, 1878, section 17<sup>2</sup> of the X of 1878. Northern India Ferries Act, 1878, or any enactment amending XVII of 18 either of those Acts ;
- (f) all such rents and profits accruing from nazul property in that district as the Chief Commissioner may, from time to time, direct to be paid to the District Council ;
- (g) all sums contributed to the Fund by the Government, local bodies or private persons ; and
- (h) all sums received by the District Council in the execution of this Act.<sup>4</sup>

<sup>1</sup> General Acts, Vol. II.

<sup>2</sup> *Supra*, p. 69.

<sup>3</sup> Act X of 1878 has been repealed by the Repealing and Amending (Rates and Cesses) Act, 1907 (IV of 1907).

<sup>4</sup> As to moneys held by panchayats under the Central Provinces Village Sanitation Act, 1902 (XI of 1902), when that Act has been withdrawn, see s. 11, *infra*, p. 248.

(2) The District Fund shall be vested in the District Council, and the balance standing to the credit of the Fund shall be kept in the Government treasury of the district.

(3) The District Fund shall be applicable to the payment, in whole or in part, of the charges and expenses incidental to the several matters specified in sections 9 and 21, within the area subject to the authority of the District Council, and, with the sanction of the Chief Commissioner, outside of that area, and also to the following purposes :—

- (a) the payment of school inspectors and normal school teachers appointed and controlled by the Government and employed in the district, and the provision of scholarships and prizes for schools in the district ;
- (b) the payment of subordinate medical officers (including vaccinators<sup>1</sup>) appointed by the Government and employed in the district ; and
- (c) the expenses attending the audit of the accounts of the District Council and of the Local Boards within the district :

Provided that the amount expended from the District Fund in any financial year on primary education shall not be less than the estimated net proceeds for that year of the rates levied in the district in accordance with the settlement-records for the maintenance of schools.

(4) When a Local Board has been declared independent under section 15, such portion of the District Fund as the Chief Commissioner may, from time to time, fix in this behalf shall, during its independence, be annually set apart and placed at its disposal, and shall, for the purposes of this Act, be treated as a separate District Fund.

24. (1) Every District Council shall appoint a finance committee consisting of not less than three of its number. Annual estimates of income and expenditure.

(2) Every District Council shall, on or before the prescribed day in each year, hold a meeting at which the finance committee shall submit to the Council, in such form as the Chief Commissioner may, from time to time, by rule, prescribe, an estimate of the income and expenditure of the Council for the next financial year.

(3) The District Council shall consider the estimate, and may provisionally approve of it with or without modification.

(4) The District Council shall, on or before the prescribed day, cause a copy of the estimate as provisionally approved by it to be sent to the Deputy Commissioner.

(5) The Deputy Commissioner may object to the estimate on the ground that any expenditure on salaries, works or otherwise, proposed therein,

<sup>1</sup> As to vaccinators, see Act XIII of 1880, *supra*, p. 81.

appears to him to be unnecessary or excessive, or that any particular contained therein appears to him to be erroneous, defective or improper.

6) If the Deputy Commissioner so objects, he shall signify his objections in writing to the District Council ; if he does not so object, he shall signify his approval in like manner.

7) When the Deputy Commissioner signifies, under sub-section (6), objections to an estimate the District Council shall consider his objections, and either modify the estimate so as to remove them, or refer the estimate with the statement of objections through the Deputy Commissioner, to the Commissioner, and the Commissioner shall signify to the District Council his approval of the estimate, with or without such modifications as may be needed to remove the objections wholly or in part as he thinks fit.

(8) When the Deputy Commissioner or Commissioner has signified his approval of an estimate, or the District Council has modified an estimate so as to remove the Deputy Commissioner's objections, no expenditure which is not provided for in the estimate as approved or modified shall be incurred during the year to which the estimate relates without the previous sanction of the Commissioner.

9) " Prescribed day," for the purpose of sub-section (2) or sub-section (4) of this section, means such day as the Chief Commissioner may, from time to time, by rule, prescribe for the purposes of that sub-section.

10) When the Deputy Commissioner is a member of the District Council, the Commissioner shall take the place of the Deputy Commissioner for the purposes of this section, and the reference under sub-section (7) shall be to the Chief Commissioner.

Annual accounts and audit.

25. Accounts of the receipts and expenditure of every District Council shall be made up to the last day of every financial year, in such form as the Chief Commissioner, from time to time, prescribes, and shall be examined and audited as soon as may be after the end of each financial year by such persons as the Chief Commissioner, from time to time, appoints in this behalf.

Inspection of estimate and accounts.

26. The District Council shall cause a copy of every estimate provisionally or finally approved under section 24, and of every account made up under section 25, to be kept at its office ; and any person may at all reasonable times inspect any such estimate or account.

Publication of abstract of accounts.

27. An abstract of every annual account of a District Council, showing the income of the District Fund under each head of receipts, the charges for establishment, the works undertaken, the sums expended on each work, and the balance, if any, of the Fund remaining unspent, shall be prepared by the District Council in such form as the Chief Commissioner, from time to

time, precribes, and published annually in the English and Vernacular official Gazettes.

*Control.*

28. (1) The Deputy Commissioner of a district shall have power to supervise the proceedings of the District Council, and of every Local Board, joint committee or school committee in the district, and in exercise of that power may (among other things)—

- (a) enter on and inspect, or cause to be entered on and inspected, any immovable property occupied by the Council, Board or committee, or any work in progress under its direction ;
- (b) call for and inspect any document which may be for the purposes of this Act in the possession or under the control of the Council, Board or committee; and
- (c) require the Council, Board or committee to furnish such statements, accounts and reports as he thinks fit.

(2) Where a joint committee is appointed by the District Councils of several districts, the Deputy Commissioner of any of those districts may exercise a like power in respect of the proceedings of that committee; but if any difference arises between two or more Deputy Commissioners acting under this sub-section, it shall be referred, when the districts are in the same division, to the Commissioner, and, when the districts are not in the same division, to the Chief Commissioner, whose decision shall be final.

(3) The power given under this section to a Deputy Commissioner in respect of a Local Board or school committee may, with the sanction of the Chief Commissioner, be delegated by him to a subordinate not below the rank of an Extra Assistant Commissioner.

(4) When the Deputy Commissioner is a member of the District Council, the powers given to him under this section shall, in respect of that Council, vest in the Commissioner.

29. (1) If, in the opinion of the Deputy Commissioner, the execution of any order or resolution of a District Council, Local Board, joint committee or school committee, or the doing of any act which is about to be done, or is being done, in pursuance of or under cover of this Act, is likely to cause injury or annoyance to the public, or to any class or body of persons, or to lead to a breach of the peace, he may, by order in writing, suspend the execution or prohibit the doing thereof within his district.

(2) When a Deputy Commissioner makes any order under this section he shall forthwith forward to the Commissioner a copy of the order, with a statement of the reasons for making it; and it shall be in the discretion of the Commissioner to rescind the order, or to direct that it continue in force, with or without modification, permanently, or for such period as he thinks fit.

(3) The Commissioner shall forthwith submit to the Chief Commissioner a report of every case occurring under this section, and the Chief Commissioner may rescind or modify any order made therein, and make in respect thereof any other order which the Commissioner could have made in respect of the same.

Extraordinary powers of Deputy Commissioner in case of emergency.

30. (1) In cases of emergency the Deputy Commissioner may provide for the execution of any work, or the doing of any act, which a District Council or Local Board is empowered to execute or do, and the immediate execution or doing of which is in his opinion necessary for the service or safety of the public, and may direct that the expense of executing the work or doing the act, with a reasonable remuneration to the person appointed to execute or do it, shall be forthwith paid by the District Council.

(2) If the expense and remuneration are not so paid, the Deputy Commissioner may make an order directing the person having the custody of the balance of the District Fund to pay the expense and remuneration, or as much thereof as is possible, from that balance.

(3) The Deputy Commissioner shall forthwith report to the Commissioner every case in which he uses the powers given to him by this section.

Power to provide for performance of duties in default of District Council.

31. (1) When the Chief Commissioner is informed, on complaint made or otherwise, that a District Council has made default in performing any duty imposed on it by or under this Act, the Chief Commissioner, if satisfied after due inquiry that the District Council has been guilty of the alleged default, may, by an order in writing, fix a period for the performance of that duty.

(2) If that duty is not performed within the period so fixed, the Chief Commissioner may appoint some person to perform it, and may direct that the expense of performing it, with a reasonable remuneration to the person appointed to perform it, shall be forthwith paid by the District Council.

(3) If the expense and remuneration are not so paid, the Chief Commissioner may make an order directing the person having the custody of the balance of the District Fund to pay the expense and remuneration, or as much thereof as is possible, from that balance.

Power to supersede Council or Board in case of incompetency, default or abuse of powers.

32. (1) If a District Council or Local Board is not competent to perform, or persistently makes default in the performance of the duties imposed on it by or under this Act or otherwise by law, or exceeds or abuses its powers, the Chief Commissioner may \* \* \*  
\* \* \*,<sup>1</sup> by an order published, with the reasons for making it, in the local official Gazette, declare the Council or Board to be incompe-

<sup>1</sup> The words "with the previous approval of the Governor General in Council" were omitted by the Decentralization Act, 1914 (IV of 1914).

tent or in default, or to have exceeded or abused its powers, as the case may be, and supersede it for a period to be specified in the order.

(2) When a District Council or Local Board is so superseded, the following consequences shall ensue :—

(a) all members of the Council or Board shall, as from the date of the order, vacate their offices as such members ;

(b) all powers and duties of the Council or Board may, during the period of supersession, be exercised and performed by such person or persons as the Chief Commissioner from time to time appoints in that behalf ;

(c) where a Council is superseded, all property vested in it shall, during the period of supersession, vest in Her Majesty.

(3) On the expiration of the period of suspension specified in the order, the Council or Board shall be re-established by appointment or election, and the persons who vacated their offices under clause (a) shall not be deemed disqualified for appointment or election.

33. In all matters connected with this Act, the Commissioner shall have and exercise the same authority and control over the Deputy Commissioners subordinate to him as he has and exercises over them in the general and revenue administration.

Powers of  
Commissioner.

#### *Rules.*

34. The Chief Commissioner may, from time to time, make rules<sup>1</sup> consistent with this Act and with reference (if necessary) to the varying circumstances of different local areas—

Power of  
Chief  
Commissioner  
to make rules  
as to District  
Councils,  
Local Boards  
and school  
committees.

(a)<sup>1</sup> as to the qualifications, mode and time of election or appointment, term of office, and remuneration and allowances (if any) of members of District Councils and Local Boards, and as to the filling of casual vacancies in such Councils and Boards, and as to the number of the representative members for each circle or group of circles, and as to the number of the representatives of the mercantile classes or professions to be elected or appointed to each Local Board or District Council ;

(b) as to the appointment, powers and duties of <sup>2</sup>school committees, the term of office of members of such committees and the mode of removing them ;

(c) as to the conduct of proceedings of District Councils, Local Boards and school committees, including the fixing of a quorum, the giving of the casting vote in cases of equal division, the minimum

<sup>1</sup> For rules under s. 34 generally, and also for rules as to election of representatives, under cl. (a), see the Central Provinces Local Rules and Orders.

<sup>2</sup> For rules as to management of schools, see *ibid.*

number of meetings to be held and the maximum interval between successive meetings, the formation of committees other than school committees and the delegation of powers to such committees ;

- <sup>1</sup>(d) as to the mode of entering into and executing contracts and transfers of property on behalf of District Councils, and the authority on which money may be paid from the District Fund ;
- (e) as to the appointment and payment of auditors of the <sup>2</sup>accounts of District Councils and Local Boards ;
- (f) as to the apportionment of the District Fund between the general purposes of the district and the purposes of particular parts of the district, and the <sup>3</sup>appropriation of funds raised in a particular area to the purposes of that area ; and,
- (g) generally, for the guidance of District Councils, Local Boards, <sup>4</sup>school committees and Government officers in all matters connected with the administration of this Act and for settling their relations to one another.<sup>5</sup>

Procedure  
for making  
rules under  
section 34.

**35.** The Chief Commissioner shall, before making any rules under section 34, publish, in such manner as may in his opinion be sufficient for giving information to persons interested, a draft of the proposed rules together with a notice specifying a date at or after which the draft will be taken into consideration ; and shall, before making the rules, receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

#### *Exceptional Provision.*

Power under  
special  
circumstances  
to except  
districts from  
operation of  
Act.

**36.** If the circumstances of any district or part of a district are, in the opinion of the Chief Commissioner, such that any of the provisions of this Act are unsuited thereto, he may, by order in writing, except<sup>6</sup> the district or part from the operation of those provisions ; and thereupon those provisions shall not apply to the excepted district or part until again applied thereto by a subsequent order of the Chief Commissioner.

<sup>1</sup> For the District Fund account rules, see Central Provinces Local Rules and Orders.

<sup>2</sup> For rules as to accounts of District Councils and Local Boards, see *ibid.*

<sup>3</sup> For rules as to the grant of pensions and gratuities, see *ibid.*

<sup>4</sup> For rules as to management of schools, see *ibid.*

<sup>5</sup> For rules as to qualification of servants other than menial, see *ibid.*

For rules as to destruction of office registers and papers, see *ibid.*

For rules as to the pay, promotion, control, etc., of vaccinators in the Central Provinces, see Central Provinces Gazette, 1911, Part III, p. 1.

<sup>6</sup> For list of exceptions under s. 36, see Central Provinces Local Rules and Orders.



*Supplemental Provisions.*

37. Where any land is required for the purposes of this Act, the Chief Commissioner may, on the request of the District Council, proceed to acquire it under the provisions of the Land Acquisition Act, 1870<sup>1</sup>; and, on payment by District Council of the compensation awarded under that Act, the land shall vest in the District Council.

38. If any member, officer or servant of a District Council, Local Board or joint committee appointed under this Act is otherwise than with the permission in writing of the Commissioner, directly or indirectly interested in any contract made with that Council, Board or committee, he shall be deemed to have committed an offence under the Indian Penal Code,<sup>2</sup> section 168.

39. (1) All rules and orders made by the Chief Commissioner under this Act shall be published in the official Gazette both in English and in such native language as the Chief Commissioner may direct.

(2) The publication in the official Gazette of a rule purporting to be made by the Chief Commissioner under section 34 shall be conclusive evidence that it has been made as required by section 35.

40. The several District Councils and Local Boards under this Act shall come into existence at such time<sup>3</sup> as the Chief Commissioner, by order, appoints in that behalf.

*Rates payable under Settlement-record.*

41. (1) All rates for the maintenance of roads, schools or the district post, for the payment of which provision<sup>4</sup> [is made in any settlement-record] shall be deemed to have been legally imposed, and shall be recoverable as if they were arrears of land revenue payable directly to Government and due on the land in respect of which they are payable.

(2) An account of the gross receipts and of the charges (if any) of collection of all such rates in each district shall be kept by the Deputy Commissioner of that district, and shall be annually rendered by him to the District Council of that district.

42. The Chief Commissioner may, from time to time, by notification in the official Gazette,—

(a) prescribe in what instalments, and at what times, the rates referred to in section 41 shall be payable, and make rules for their collection by village-officers or others; and

<sup>1</sup> See now the Land Acquisition Act, 1894 (I of 1894), General Acts, Vol. IV.

<sup>2</sup> General Acts, Vol. I.

<sup>3</sup> For such dates, see the Central Provinces Local Rules and Orders.

<sup>4</sup> These words, in s. 41 (1) were substituted for the words "has been made in any settlement record previous to the passing of this Act" by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), s. 41, *in fine*, p. 131.

- (b) exempt any land from liability to pay the whole or any part of any such rate, and vary or cancel any such exemption.

*Amendment of the Northern India Ferries Act, 1878.*

New section to follow section 7 of Act XVII of 1878.

**43** After section 7 of the Northern India Ferries Act, 1878, the following shall be inserted, namely :—

XVII of 1878.

[*Vide supra*, p. 69.]

Amendment of sections 6 and 17 of same Act.

**44.** In section 6 of the same Act, after the words “section 7,” and in section 17 of the same Act, after the words “section 7,” where they first occur, the following shall be inserted, namely :—“and section 7-A.”

ACT No. III OF 1886.<sup>1</sup>

[THE NORTHERN INDIA FERRIES ACT, AMENDMENT ACT, 1886.]

[29th January, 1886.]

An Act to amend the Northern India Ferries Act, 1878.

WHEREAS it is expedient to amend the Northern India Ferries Act, 1878 ; XVII of 1878.  
It is hereby enacted as follows :—

Substitution of new section for section 8, and Amendment of sections 12 and 15.

- 1.** (1) For section 8 the following shall be substituted, namely :—

[*Vide supra*, p. 69.]

- (2) For section 12, clause (b), the following shall be substituted namely :—

[*Vide supra*, p. 70.]

- (3) In the third paragraph of section 15, for the word “auction” the word “lease” shall be substituted.

Amendment of section 13 and substitution of new section for section 26.

- 2.** (1) For the first paragraph of section 13 the following shall be substituted, namely :—

[*Vide supra*, p. 71.]

- (2) In the second proviso to the said section, after the word “boats” the words “which do not ply for hire or” shall be inserted.

- (3) For section 26 the following shall be substituted, namely :—

[*Vide supra*, p. 74.]

<sup>1</sup> For Statement of Objects and Reasons, see *Gazette of India*, 1885, Pt. V., p. 277 and for Proceedings in Council, see *ibid*, Supplement, p. 1257, and *ibid*, 1886, p. 224.  
Short title— the Northern India Ferries Act, Amendment Act, 1886, see the Amending Act, 1897 (V of 1897), General Act, Volume IV.

ACT No. XVI OF 1889.<sup>1</sup>

[29th October, 1889.]

f 1883 An Act to amend \* \* \* \* \*  
the Central Provinces Local Self-government Act, 1883.

\* \* \* \* \*  
And whereas it is also expedient to amend the Central Provinces Local  
Self-government Act, 1883 ; It is hereby further enacted as follows :—

2\* \* \* \* \*  
41. In section 41, sub-section (1),<sup>3</sup> of the said Act, for the words “ has been made in any settlement-record previous to the passing of this Act ” the words “ is made in any settlement-record ” shall be substituted. Amendment  
of section  
41, Act I,  
1883.

## THE CENTRAL PROVINCES TENANCY ACT, 1898: (XI OF 1898.)

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<sup>1</sup> For Statement of Objects and Reasons, see *Gazette of India*, 1889, Part V, p. 146, and for Proceedings in Council, see *ibid.*, 1889, Pt VI, pp. 121 and 181.

<sup>2</sup> Repealed except s. 41 by the C. P. Land-revenue Act, 1917 (C. P. Act II of 1917), *infra*.

<sup>3</sup> *Supra*, p. 12).

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ACT No. XI OF 1898.<sup>1</sup>

[ THE CENTRAL PROVINCES TENANCY ACT, 1898.]

[The 21st October, 1898.]

## An Act to consolidate and amend the Law relating to Agricultural Tenancies in the Central Provinces.

WHEREAS it is expedient to consolidate and amend the law relating to agricultural tenancies in the Central Provinces; It is hereby enacted as follows :—

<sup>1</sup> For Statement of Objects and Reasons, see *Gazette of India*, 1897, Pt. V, p. 195; for Report of the Select Committee, see *ibid*, 1898, Pt. V, p. 313, and for Proceedings in Council, see *ibid*, 1897, Pt. VI, p. 224; *ibid*, 1898, Pt. VI, pp. 369 and 373.

## CHAPTER I.

## PRELIMINARY.

Short title,  
extent and  
commence-  
ment.

1. (1) This Act may be called the Central Provinces Tenancy Act, 1898.

(2) It extends to all the territories for the time being administered by the Chief Commissioner of the Central Provinces; and

(3) It shall come into force at once.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(1) the expressions “agricultural year,” “málik-mákbúzá,” “sir-land,” “survey-number,” “record-of-rights” and “village” have the meanings assigned to them, respectively, in the <sup>1</sup> Central Provinces Land-revenue Act, XVIII of 1881, as from time to time amended : 1881.

(2) “arrear” means an instalment or part of an instalment of rent which is not paid on or before the date on which it is payable :

(3) “holding” means a parcel of land held by a tenant of a landlord under one lease or one set of conditions :

(4) “improvement” means, with reference to a holding, any work which adds to the letting-value of the holding, which is suitable to the holding and consistent with the purpose for which it was let, and which, if not executed on the holding, is either executed directly for its benefit, or is, after execution, made directly beneficial to it :

*Explanation I.*—It includes the reclaiming, enclosing or clearing of lands for agricultural purposes ; but it does not include such embankments, temporary wells and water-channels as are made by tenants in the ordinary course of agriculture ; and no work executed by the tenant of a holding is an improvement if it substantially diminishes the value of any other part of the estate of his landlord :

*Explanation II.*—A work which benefits several holdings may be deemed to be, with respect to each of them, an improvement :

(5) “land” means land which is let or occupied for agricultural purposes or for purposes subservient to agriculture, and includes the sites of buildings appurtenant to such land :

(6) “landlord” means the person of whom a tenant holds land, and to whom the tenant is, or, but for special contract, would be, liable to pay rent, for that land :

(7) “pay,” “payable” and “payment,” used with reference to rent include “deliver,” “deliverable” and “delivery” :

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<sup>1</sup> See now the corresponding definitions in s. 2 and 45 of the C. P. Land-revenue Act, 1917 (C. P. Act II of 1917), *infra*, p. 400.



(8) "rent" means whatever is paid, delivered or rendered, in money, kind or service, by a tenant on account of the use or occupation of land let to him :

(9) "Revenue-officer" and "settlement-officer," in any provision of this Act, mean, respectively, such Revenue-officer or Settlement-officer appointed under the <sup>1</sup> Central Provinces Land-revenue Act, 1881, as from time to time amended, as the Local Government may, by notification <sup>2</sup> in the local official Gazette, direct to discharge the functions of a Revenue-officer or Settlement-officer (as the case may be) under that provision : and

(10) "tenant" means a person who holds land of another person, and is or, but for a special contract, would be, liable to pay rent for that land to that other person. But it does not include a farmer, mortgagee or thikádár of proprietary right :

*Explanation I.*—An inferior proprietor is not, as such, a tenant .

*Explanation II.*—The holder of a survey-number in a village let in farm by the Government, or held by a gaontia in the Sambalpur District, is a tenant of the farmer or gaontia for the time being.

## CHAPTER II.

### OF TENANTS GENERALLY.

#### A.—Classification of Tenants.

3. There shall be five classes of tenants, namely :—

- (1) absolute occupancy-tenants ;
- (2) occupancy-tenants ;
- (3) village-service-tenants ;
- (4) sub-tenants ; and
- (5) ordinary tenants.

Classes of  
tenants.

#### B.—Provisions relating to Rent.

4. In all suits and proceedings between landlord and tenant, the rent payable for any agricultural year by a tenant in respect of his holding shall be presumed, until the contrary is proved, to be the rent payable in respect of the holding in the agricultural year immediately preceding that year.

Presumption  
as to amount  
of rent pay-  
able.

5. Save as provided in sections 66 and 78, an order fixing, altering or commuting the rent of a holding on an application under his Act may, as the officer making the order thinks fit, take effect from the commencement of the agricultural year next following the date of the application, or from any subsequent day, or if it is made on the ground of increase, diminution or

Date from  
which order  
fixing rent  
operates.

<sup>1</sup> See now the Central Provinces Land-revenue Act, 1917 (C. P. Act II of 1917), *infra*.

<sup>2</sup> For officers appointed to be Revenue-officers under this clause, see Central Provinces Local Rules and Orders.

deterioration of the holding, from the date of that increase, diminution or deterioration, or from any subsequent day.

Time for  
payment of  
rents.

6. Rent shall be payable in such instalments and on such dates as the Local Government may, by <sup>1</sup> notification in the local official Gazette, prescribe, and in the absence of any such notification applicable to the case, according to the contract between the parties, or, where there is no such contract, according to local usage.

Rents payable  
to a number  
of landlords.

7. When two or more persons are landlords of a tenant in respect of the same holding, the tenant, subject to any rule which the Local Government may, by notification in the local official Gazette, make in this behalf, and to any contract between the parties, shall not be bound to pay part of the rent of his holding to one of those persons and part to another or others; and, subject as aforesaid, those persons shall, if the tenant so desires, appoint one of their number or some other person to receive the rent.

Power to  
deposit rent  
in certain  
cases with  
Revenue-  
officer.

8. (a) When a landlord refuses to accept any instalment of rent payable in money when tendered to him by a tenant,

(b) when a tenant, in the case mentioned in section 7, desires the appointment of a person to receive rent payable in money and the appointment is not made within a reasonable time, and

(c) when a tenant in any case is doubtful as to the person entitled to receive rent payable in money,

the tenant may apply to a Revenue-officer for permission to deposit in his Court the amount of rent which he believes to be due; and that officer shall receive the deposit, if it appears to him, after examining the applicant, that he had reasonable grounds for making the application, and that it was made in good faith, and if the applicant pays the fee (if any) chargeable for the issue of the notice next hereinafter referred to.

Effect of  
depositing  
rent.

9. (1) When a deposit has been so received, it shall be deemed to be a payment made by the tenant to his landlord in respect of rent due.

(2) The officer receiving the deposit shall give notice of the receipt thereof to every person who he has reason to believe claims, or is entitled to, the deposit, and may pay the amount thereof to any person appearing to him to be entitled to the same or may, if he thinks fit, retain the deposit pending the decision of a Civil Court as to the person so entitled.

(3) No suit or other proceeding shall be instituted against the Secretary of State for India in Council, or against any officer of the Government, in respect of anything done by a Revenue-officer under this section; but nothing in this section shall prevent any person entitled to receive the amount of any such

<sup>1</sup> For notification under s. 6 fixing dates for the payment of rent, see Central Provinces Local Rules and Orders.

deposit from recovering the same from a person to whom it has been paid by a Revenue-officer.

10. A landlord who, except under any special enactment for the time being in force, levies from a tenant anything in excess of the rent legally payable shall, on the application of the tenant, be liable under the order of a Revenue-officer, not below the class of Deputy Commissioner, to pay as penalty such sum as the Revenue-officer thinks fit, not exceeding five hundred rupees, or when double the amount or value of what is so levied exceeds five hundred rupees, not exceeding double that amount or value. Such sum shall be awarded to the tenant as compensation.

Penalty for levy of anything in excess of rent by landlord.

11. Where rent is due, every payment by a tenant to his landlord shall, unless the tenant otherwise agrees, be presumed to be a payment on account of rent.

Presumption as to payments by tenants to landlord.

12. A landlord who refuses to grant a receipt for rent paid by a tenant, or grants a receipt but refuses or neglects to specify therein the holding, and the period or crop, in respect of which the payment is made, or the amount paid, shall, on the application of the tenant, be liable, under the order of a Revenue-officer, to pay as penalty such sum, not exceeding double the amount or value of the rent so paid, as the Revenue-officer thinks fit. Such sum shall be awarded to the tenant as compensation.

Penalty for refusing receipt or giving defective receipt.

13. Notwithstanding anything in the record-of-rights, but subject to any contract in writing between the parties, the rent payable in money by any tenant may, on the application of his landlord, be enhanced by a Revenue-officer on the ground that an improvement has been made since the present rent was fixed and in accordance with this Act by or at the expense of the landlord whereby the productive power of the holding has been increased.

Enhancement of rent when productive power of holding increased by landlord.

14. When the rent of any tenant has been enhanced under section 13 or was fixed at the current settlement with regard to an improvement made by or at the expense of the landlord, a Revenue-officer may at any time, on the application of the tenant, modify or cancel the order for enhancement, or reduce such rent, on the ground that the effect of the improvement in increasing the productive power of the holding has diminished or ceased since the date of the order for enhancement or of the last modification of such order made under this section, or since the rent was fixed by the Settlement-officer, as the case may be.

Reduction of rent when effect of improvement ceased.

15. When the area of a holding the rent of which is payable in money is increased or diminished by the encroachment of the tenant or the landlord, or by fluvial action or otherwise, or the soil of a holding is, without the fault of the tenant, permanently deteriorated by a deposit of sand or by any other calamity, a Revenue-officer may, notwithstanding anything in the record-of-

Power to alter rent when holding is increased, diminished or deteriorated.

rights or any contract between the parties, by order on the application of the landlord or of the tenant, alter the rent with reference to that increase, diminution or deterioration.

Power to  
alter rent in  
case of new  
assessment.

16. When a landlord grants a lease, or makes any other contract fixing the rent of any holding, and, while the lease or contract is in force,—

(a) land-revenue is for the first time made payable in respect of the holding, or

(b) land-revenue having been previously payable in respect of it, the revenue payable when the lease or other contract was granted or made is increased or diminished.

a Revenue-officer may, notwithstanding anything in the record-of-rights or any contract between the parties, by order on the application of the landlord or of the tenant, alter the rent with reference to the revenue.

Commutation  
of rent pay-  
able in kind.

17 (1) In all cases in which a tenant, other than an ordinary tenant whose holding consists entirely of sir-land or than a sub-tenant, pays rent for a holding in kind, or on the estimated value of a portion of the crop or at rates varying with the crop, or partly in one or those ways and partly in another or others, the landlord or tenant may, notwithstanding anything in the record-of-rights, or any contract between the parties other than a contract whereby waste-land is let for the purpose of reclamation, apply during the progress of a settlement to a Settlement-officer, or at any other time to a Revenue-officer, to commute the rent to a fixed money-rent.

(2) On the receipt of the application, the officer, after giving notice of the application to the other party and hearing him, if he appears, may fix the sum to be paid as money-rent, and may, for reasons to be recorded by him in writing, order that the tenant shall, in lieu of paying his rent in kind, or otherwise as aforesaid, pay the sum so fixed.

(3) If the application is opposed, the officer may, for reasons to be recorded by him in writing, refuse to grant the same.

Remission  
and suspen-  
sion of rent  
consequent  
on like treat-  
ment of land-  
revenue.

18. (1) Whenever from any cause the payment of the whole or any part of the land-revenue payable in respect of any land is remitted or suspended a Revenue-officer may, by general or special order, remit or suspend, as the case may be, the payment of the rent of that land to an amount which may bear the same proportion to the whole of the rent payable in respect of the land as the land-revenue of which the payment has been remitted or suspended bears to the whole of the land-revenue payable in respect of the land, and may distribute the amount so remitted or suspended amongst the tenants holding such land as may seem to him to be equitable, having regard to the effect on their holdings of the cause which has led to the remission or suspension of the land-revenue :

Provided that, where the rent is taken by actual division of the produce, no portion of it shall be suspended under this section.

(2) An order passed under sub-section (1) shall not be liable to be contested by suit in any Court.

(3) No suit shall lie for the recovery of any rent of which the payment has been remitted, or, during the period of suspension, of any rent of which the payment has been suspended, and, so long as a suit does not lie, such rent shall not be legally payable within the meaning of section 10.

(4) Where the payment of rent has been suspended, the period of suspension shall be excluded in the computation of the period of limitation prescribed for bringing a suit for the recovery of the rent.

(5) The provisions of this section relating to the remission and suspension of the payment of rent may be applied, as far as may be, to land of which the land-revenue has been wholly or in part released, compounded for or redeemed, in any case in which, if the land-revenue, in respect of the land had not been released, compounded for or redeemed, the whole or any part of it might, in the opinion of the Revenue-officer, have been remitted or suspended.

(6) The provisions of this section relating to rent shall apply also, as far as may be, to revenue payable by *málik-mákbúzás*, to revenue and *málikáná* payable by inferior proprietors, and to *thíka-jamás* payable by *thikádárs* of proprietary rights, and the provisions of section 10 apply in cases where revenue, *málikáná* or *thíká-jumá* has been collected in contravention of this section.

### *C.—Commissions for dividing or estimating Crops.*

19. Whenever rent is taken by division of the produce, or by estimate or appraisal of the crop, if either the landlord or the tenant neglects to attend, either personally or by agent, at the proper time for making the division, estimate or appraisal, or if there is a dispute about the division of the produce or the quantity or value of the crop, a Revenue-officer may, on the application of either party, issue a commission to such person as the officer thinks fit, directing him to divide, estimate or appraise the crop. Commission for dividing or estimating crops.

20. (1) When a Revenue-officer appoints a Commissioner for any of the purposes mentioned in section 19, the officer may, in his discretion, direct the Commissioner to associate with himself any other persons as assessors, and may give him instructions regarding the number, qualifications and mode of selecting those assessors (if any), and the procedure to be followed in making the division, estimate or appraisal. Appointment of assessors, etc.

(2) The Commissioner so appointed shall make the division, estimate or appraisal in accordance with those instructions.

Remedy for error in division.

21. (1) If in any division under the foregoing provisions either party receives less than the share to which he is entitled, he may, within three months from the date on which the division is completed, institute a suit against the other party to recover the value of the additional portion of the crop due to him at the price which prevailed on that date.

(2) If no such suit is instituted within the said period of three months, the division shall for all purposes be deemed as between the parties thereto to have been rightly made.

Procedure when crop has been estimated or appraised.

22. (1) When a crop has been estimated or appraised under the foregoing provisions, the estimate or appraisal shall be reduced to writing and signed by the Commissioner making the same, and shall be submitted to the Revenue-officer by whom the commission was issued.

(2) The Revenue-officer shall consider the Commissioner's report, and after such hearing and enquiry (if any), as he may think necessary, shall pass an order thereon either confirming or varying the estimate or appraisal, and that order shall be final.

*D.—Of the Landlord's Lien on the Produce of a Holding.*

Definition of "produce of a holding."

23. In sections 24 to 30 (both inclusive) the produce of a holding means—

(a) crops and other products of the earth standing or ungathered on the holding ;

(b) crops and other products of the earth which have been grown on the holding and have been reaped or gathered and are deposited on the holding or on a threshing-ground, or are stored, by a tenant of the land on which they have been grown, within the village in which the holding is situate or the tenant resides.

Power of landlord, by notice, to prohibit removal of produce.

24. Where an arrear of rent is due in respect of a holding, the landlord may, by notice served as hereinafter provided, prohibit the removal of the produce of the holding :

Provided that—

*first*, such a prohibition shall not be made on account of an arrear which has been due for a longer period than one year, or in respect of any produce which is under attachment by order of any Civil Court ; and

*secondly*, such a prohibition shall not be made more than once in respect of the same produce on account of the same arrear.

Effect of instituting suit for rent while notice is in force.

25. If, while the notice is in force, the landlord institutes a suit for the recovery of the rent, the notice shall continue in force until the Court trying the suit otherwise directs and, if the landlord obtains a decree in the suit, the amount of that decree shall be the first charge upon the produce.

26. A notice under section 24 shall not prevent any person from reaping, gathering or storing any produce, or doing any other act necessary for its due preservation. Right to reap, etc., produce not affected.

27. (1) Every notice under section 24 shall be in writing, and shall specify the amount of the arrear claimed, the period for which, and the holding in respect of which, it is claimed, and, when an amount in excess of the rent payable by the tenant in the last preceding agricultural year is claimed, the decree, order or agreement, as the case may be, for the payment of that amount. Contents and service of notice ; time, for which it remains in force.

(2) The notice shall be served on the person in charge of the produce, and shall, subject to the provisions of section 25, remain in force until the expiration of thirty-five days from the date of service of the notice, or, if the rent specified in the notice is paid previously to the expiration of such thirty-five days, until such rent is paid

28. (1) If the produce of the holding on which the arrear is due is under attachment by order of a Civil Court, the landlord may apply to the Court to sell the produce and pay to him out of the proceeds of the sale thereof the amount or value of— Procedure when produce is under attachment.

(a) any rent which has fallen due to him in respect of the holding within the year immediately preceding the application ; and

(b) the instalment of rent falling due next after the time at which in the ordinary course of agriculture the produce would be harvested.

And the Court, if on enquiry it finds the landlord's claim to the whole or any part of the rent to be proved, shall sell the produce or such portion thereof as it may deem necessary, and shall apply the proceeds of the sale, in the first instance, to satisfy the claim.

(2) The finding of a Court on an inquiry under this section shall have the force of a decision in a suit between the parties.

29. Where land is sublet and any conflict arises under sections 24 to 28 (both inclusive) between the rights of a superior and of an inferior landlord, the right of the superior landlord shall prevail. Conflict between rights of superior and inferior landlord.

30. (1) Any landlord of a holding who distrains or attempts to detain the produce of the holding, or prevents or attempts to prevent, otherwise than in accordance with this Act, any person from reaping, gathering, storing, removing or otherwise dealing with any produce of the holding, and, Penalty for illegal distraint by landlord, and for illegal removal of produce.

where a notice, in respect of the produce of a holding has been served under section 27 and is in force, any person who knowing or having reason to believe that the notice is in force, removes, attempts to remove or abets the removal of the produce, except for any of the purposes mentioned in section 26,

shall, on the application of either landlord or tenant, be liable under the order of a Revenue-officer to fine which may extend to five hundred rupees.

(2) Nothing in this section, and, except as provided in section 516 of the <sup>1</sup> Code of Criminal Procedure, 1898, no proceeding under this section, v of 18: shall affect the right of any person to recover compensation in a civil suit.

*E.—Of Improvements and Compensation therefor.*

Right to  
make im-  
provements.

31. (1) In respect of the holding of an absolute occupancy-tenant or occupancy-tenant, or of the holding of an ordinary tenant which does not consist entirely of sir-land, the tenant shall be entitled to make improvements.

(2) If the landlord of any such holding as is referred to in sub-section (1) desires that any improvement be made in respect of the holding, he may deliver, or cause to be delivered, to the tenant a request in writing calling upon him to make the improvement within a reasonable time, and, if the tenant is unable or neglects to comply with that request, may, subject to such <sup>2</sup> rules of procedure as the Local Government may, by notification in the local official Gazette, prescribe in this behalf, make the improvement himself.

(3) In respect of the holding of an ordinary tenant which consists entirely of sir-land, the landlord shall be entitled to make improvements.

Liability to  
pay to  
tenant on  
ejectment  
compensation  
for improve-  
ments.

32. (1) If a tenant, or the person under whom he claims, has made an improvement in respect of his holding in accordance with this Act or with the landlord's consent otherwise than in accordance with this Act, he shall not be ejected until he has received compensation for the improvement, unless the improvement was begun by him after the institution of the proceedings which resulted in the decree or order for his ejectment.

(2) A Civil Court making a decree for the ejectment of a tenant, or a Revenue-officer ordering ejectment in execution of a decree for arrears or otherwise, shall determine the amount of compensation (if any), due to him under this section, and shall stay execution until the landlord deposits the amount less any arrears of rent or costs that have been ascertained by the proceedings for such ejectment to be due to him from the tenant.

(3) No compensation shall be claimable under this section for an improvement where the tenant has made the improvement in pursuance of a contract binding him, in consideration of some substantial advantage to be obtained by him, to make the improvement without compensation, and has obtained that advantage.

<sup>1</sup> General Act, Volume V.

<sup>2</sup> For rules made under s. 31 (2), see Central Provinces Local Rules and Orders.



(4) Improvements made by a tenant before the commencement of this Act in lands other than sîr-land, shall be deemed to have been made in accordance with this Act, unless it is shown that the landlord forbade the tenant to make the improvement, and was ready to make it himself.

33. (1) The Local Government may, by notification in the local official Gazette, make<sup>1</sup> rules requiring the Civil Court to associate with itself, for the purpose of estimating the compensation to be awarded under section 32 for an improvement, such number of assessors as the Local Government thinks fit, and determining the qualifications of those assessors and the mode of selecting them.

(2) In estimating the compensation to be awarded under section 32 for an improvement, regard shall be had—

- (a) to the amount by which the letting-value, or the produce, of the holding, or the value of that produce, is increased by the improvement;
- (b) to the labour and capital required for the making of such an improvement; and
- (c) to any reduction or remission of rent or other advantage given by the landlord to the tenant in consideration of the improvement.

(3) When the amount of the compensation has been assessed, the landlord and tenant may, if they think fit, agree that, instead of being paid wholly in money, it shall be made wholly or partly in some other way.

34. An entry in the record-of-rights of any village or a stipulation in a contract providing :—

- (a) that a landlord shall be entitled to prevent a tenant from making, or to eject him for making, such improvements on his holding as he is entitled to make under this Act, or
- (b) that a tenant ejected from his holding shall not be entitled to compensation for improvements in any case in which he would, under this Act, be entitled to such compensation,

shall be void.

#### *Miscellaneous.*

35. (1) Any tenant not bound by a lease or other agreement for a fixed period may, at the end of any agricultural year, surrender his holding :

Provided that, notwithstanding such surrender, the tenant shall continue to be liable for the agricultural year next following the date of the surrender for the rent of the holding, unless he gives to his landlord, at least thirty days before he surrenders, notice of his intention to surrender.

(2) In the following cases the Court shall presume that notice was duly given as required by the proviso to sub-section (1), that is to say :—

- (a) if the tenant takes a new holding in the same village from the same landlord during the agricultural year next following the surrender;

<sup>1</sup> For rules as to compensation made under s. 33, see the Central Provinces Local Rules and Orders.

- (b) if the tenant ceases, at least thirty days before the end of the agricultural year at the end of which the surrender is made, to reside in the village in which the surrendered holding is situate; and
- (c) if the landlord himself, at any time during the agricultural year next following the surrender, cultivates or lets to another tenant the holding or any part thereof.

(3) A tenant of a survey-number in a village let in farm by the Government, or held by a gaontia in the Sambalpūr District, shall be deemed to have surrendered his holding if he refuses to agree to the rent fixed under this Act for the holding, but shall not continue liable under sub-section (1) for the rent of his holding.

(4) Any tenant other than an absolute occupancy-tenant who leaves his holding uncultivated and the rent of it unpaid for a period of two years shall at the expiration of that period, be deemed to have surrendered the holding :

Provided that, in reckoning that period, any time during which, owing to an inundation or any other accident to the land beyond the tenant's control, it may have been impossible to cultivate the land shall be excluded.

Surrender of  
occupancy-  
tenant's hold-  
ing.

36. (1) If an occupancy-tenant surrenders his holding under section 35 any such person as would be entitled to inherit his right in the holding in the event of his death without nearer heirs may, on application to a Revenue-officer, made at any time within two years after the date of the surrender, be placed in possession of the holding, subject, so far as the Revenue-officer may, in accordance with rules<sup>1</sup> made by the Local Government, determine, to his acceptance of the liabilities of the surrendering tenant for arrears of rent and for advances made by the landlord or other persons for the necessary expenses of cultivation.

(2) As among several persons so entitled and desirous of being placed in possession of the holding, the right to be so placed shall accrue in the order in which such persons would have inherited the right of the tenant in the holding if the tenant had died.

(3) When any such application as aforesaid is made, the Revenue-officer shall issue a notice to all persons who seem to him *prima facie* to have a right equal or prior to that of the applicant, and shall also cause local proclamation to issue in the village in or from which the holding was cultivated, inviting all persons claiming to be heirs of the tenant who made the surrender to appear before him on a date to be fixed; and shall, after hearing such of the persons to whom notice was issued as may appear, and any other persons who may apply to be heard in the matter, decide who from among such of them as desired to be placed in possession is first entitled to be so placed.

<sup>1</sup> For rules under s. 36 in conjunction with ss. 47 and 71, see Central Provinces Local Rules and Orders.

(4) Sub-sections (1), (2) and (3) shall not apply in cases where, 'subject to any rules <sup>1</sup> made by the Local Government in this behalf', a Revenue-officer has decided, after an enquiry made on the application of either landlord or tenant, that the surrender is *bonâ fide* and has not been made with the object of evading the provisions of section 45 or section 46.

37. When a person, at the time of taking a *thikâ* or farm, is a tenant of any land comprised therein, his interest as tenant shall not be affected by reason only of his taking the *thikâ* or farm. Tenant taking *thikâ* or farm.

38. Nothing in this Act regarding the rights of an absolute occupancy-tenant, an occupancy-tenant or an ordinary tenant shall be deemed to apply to the tenant of any land situate within the limits of any forest-land or waste-land which has been declared to be a reserved forest under the <sup>2</sup> Indian Forest Act, 1878. Provisions regarding tenant-right not applicable to tenant of land in reserved forests.

of

### CHAPTER III.

#### OF ABSOLUTE OCCUPANCY—TENANTS.

39. Every person who, at the commencement of this Act, is the tenant of any holding in respect of which he, or a person whose rights he has acquired, had been recorded in any record-of-rights made before the first day of January, 1894, as an "absolute occupancy-raiyat," or in terms equivalent thereto, shall, unless he has parted with his rights, be deemed to be an absolute occupancy-tenant of that holding. Definition of "absolute occupancy-tenant."

40. (1) The rent of the holding of every absolute occupancy-tenant shall be fixed by the Settlement-officer at each settlement of the area in which the holding is comprised, and the rent so fixed shall not be altered during the currency of the settlement, except under the provisions of section 13, section 14, section 15 or section 17. Rents fixed for period of settlement.

(2) The rent payable by any such tenant in respect of his holding at the commencement of this Act shall be deemed to have been fixed at the current settlement of the area in which his holding is comprised.

41. (1) The right of an absolute occupancy-tenant in his holding shall on his death devolve as if it were land, and shall be transferable subject to the conditions contained in this section. Right heritable and transferable after notice to landlord, who may claim to purchase.

(2) If an absolute occupancy-tenant intends to transfer any right in his holding by sale or gift, or by mortgaging the same for a sum which, together with the interest payable thereon during the five years immediately succeeding the mortgage and the previous sums (if any), secured by mortgage of it, would exceed eight times the annual rent of the holding, or by sub-letting the

<sup>1</sup> For rules under s. 36 in conjunction with ss. 47 and 71, see Central Provinces Local Rules and Orders.

<sup>2</sup> General Acts, Vol. II.

same in consideration of a fine or premium exceeding five times that rent, he shall give to his landlord a written notice of his intention, and shall defer proceeding with the transfer for a period of one month from the date on which the notice is given.

(3) If the intended transfer is by sale or gift, the landlord may, within the said period of one month—

(a) claim to purchase the absolute occupancy-right at such value as a Revenue-officer may, on application made to him in this behalf, fix : or

(b) permit the sale or gift, in which case he shall be entitled to a sum equal to the rent for one year, and that sum shall be a first charge on the holding.

(4) If the intended transfer is by mortgage or sub-lease, the landlord may, within the said period of one month, claim to purchase the absolute occupancy-right at such value as a Revenue-officer may, on application made to him in this behalf, fix.

(5) When the right of an absolute occupancy-tenant in his holding is sold or is foreclosed by order of a Civil Court in execution of a decree other than a decree obtained by his landlord, the landlord shall have the same right of pre-emption as is given in the case of a sale by clause (a) of sub-section (3).

(6) When an application is made to a Revenue-officer under this section to fix the value of an absolute occupancy-right which is already mortgaged he shall fix the value of the right as if it were not mortgaged ; and, if the landlord purchases the right, the mortgaged-debt shall be a charge on the purchase-money in exoneration of the land.

(7) Any transfer made in contravention of this section shall be voidable at the instance of the landlord.

(8) If a person to whom an absolute occupancy-tenant has transferred possession of his holding in contravention of the provisions of this section be ejected by the landlord, the tenant may apply to a Revenue-officer within one year of the ejectment of such person to be reinstated in possession of the holding, and the Revenue-officer may order him to be reinstated in possession on his depositing within a stated period, for payment to the landlord, the costs incurred by the landlord in procuring the ejectment. If the tenant fails to make such application within one year of the ejectment, or if he fails to deposit such costs within the period stated, his tenancy shall be deemed to have lapsed.

42. Notwithstanding any contract to the contrary, or any provision of a record-of-rights, an absolute occupancy-tenant shall not be ejected from his holding by his landlord as such for any cause.

Absolute  
occupancy-  
tenant not  
liable to  
ejectment.

43. The rent of the holding of an absolute occupancy-tenant shall be the first charge on that holding, which shall, subject to the other provisions of this Act, be liable to sale in execution of a decree for arrears of the rent there if.

Rent first charge on holding and holding saleable in execution of decree for arrears of rent.

## CHAPTER IV.

### OF OCCUPANCY-TENANTS

44. Every tenant who, on the first day of January, 1884, had held the same land continuously for twelve years, otherwise than as an absolute occupancy-tenant or a sub-tenant, and every person who is at the commencement of this Act, or thereafter becomes, a tenant (not being an absolute occupancy-tenant or a sub-tenant) of land in the districts of Chánda, Nimár and Sambalpúr, shall be deemed to be an occupancy-tenant of that land :

Definition of "occupancy-tenant."

Provided that the land is not—

- (a) sîr-land, or
- (b) held in lieu of wages, or
- (c) held, in any district other than Sambalpúr, under a written lease in which it is expressly agreed that a right of occupancy in the land shall not be acquired or that the tenant shall quit the land at the termination of the lease.

*Explanation I.*—The occupation of any person from whom the tenant inherited or lawfully acquired his holding shall, for the purposes of this section, be deemed to be the occupation of the tenant.

*Explanation II.*—Where, by the custom of any village, the holdings of tenants are, or have been, liable to periodical re-distribution, land which a tenant or any person under whom he claims has, in accordance with that custom, from time to time, received in exchange for land previously held by him, is, for the purpose of calculating, under this section, the period of twelve years, deemed to be the same land as the land which he held before the exchange.

45. (1) Notwithstanding any agreement to the contrary and save where sanction has been given under sub-section (2), a proprietor who, after the commencement of this Act, temporarily or permanently loses (whether under decree or order of a Civil Court or a Revenue-officer or otherwise) or transfers his right to occupy sîr-land as a proprietor, shall at the date of such loss or transfer become an occupancy-tenant of that sîr-land, and the rent payable by him as such shall be the sum determined at the current settlement as the rental value of such land, unless and until, on the application of either landlord or tenant, the rent is fixed by a Revenue-officer.

Accrual of occupancy-tenant-right in sîr-land on transfer of right to occupy as proprietor.

Grant of sanction in certain cases to transfer of the right to occupy sîr-land.

(2) An application by a proprietor for sanction to transfer his sîr-land without reservation of the right of occupancy provided for in sub-section (1) may be made to such Revenue-officer, not being below the class of Deputy Commissioner, as the Local Government may<sup>1</sup> appoint for this purpose. Such officer shall sanction transfer in cases in which he is satisfied that the transferor is not wholly or mainly an agriculturist or that the property is self-acquired or has been acquired otherwise than by inheritance within the twenty years last preceding. In other cases he shall transmit the application to the Local Government, which may sanction the transfer in whole or in part, on the ground that—

- (a) the transferor, though wholly or mainly an agriculturist, will have other permanent means of subsistence after transferring the right to occupy his sîr-land,
- (b) that the area of the sîr-land is too large for the transferor to manage after he has transferred his proprietary rights, or
- (c) that for any other reason the transfer ought to be permitted.

The Local Government may make rules<sup>2</sup> for the guidance of Revenue-officers dealing with applications under this sub-section.

Prohibition in certain cases of registration of documents transferring right to occupy sîr-land.

(3) Notwithstanding anything contained in the 'Indian Registration III of 1877' Act, 1877, no officer empowered to register documents under that Act shall admit to registration any document which purports to transfer or surrender the rights of a proprietor in his sîr-land, without reservation of the right of occupancy provided for in sub-section (1), or to be an agreement for such transfer or surrender, unless sanction to such transfer or surrender has been endorsed on the document in such manner and by such authority as the Local Government may direct.

Partition of undivided share in sîr-land.

(4) If there are two or more sharers in any sîr-land, and one of them becomes an occupancy-tenant in it under this section, his previous share in such sîr-land shall, on application made by him or by his landlord, be divided off by a Revenue-officer, and his rights as occupancy-tenant shall be limited to the land comprised in such share.

Saving of rights of ordinary tenants.

(5) The accrual of occupancy-tenant-right under sub-section (1) shall not affect the rights of an ordinary tenant holding any part of the sîr-land at the time of such accrual.

<sup>1</sup> For notification appointing an officer for the purposes of s. 45 (2), see Central Provinces, Gazette, 1899, Pt. III, p. 14.

<sup>2</sup> For rules under s. 45 (2), see Central Provinces Local Rules and Orders.

<sup>3</sup> See now the Indian Registration Act, 1908 (XVI of 1908), General Act, Vol. VI.

<sup>1</sup>(6) [Nothing in this section shall affect a document duly registered before the commencement of this Act ; and, on any surrender or transfer such as is described in sub-section (1) being made, decreed or ordered in pursuance of such a document, the rights of the parties to occupy the sîr-land shall accrue as if this Act has not been passed.]

Saving of prior registered documents.

(7) No Civil Court shall question the validity of an order passed under this section granting or refusing sanction to the transfer of the right to occupy sîr-land as a proprietor.

Bar of jurisdiction of Civil Courts.

(8) Nothing in this section shall apply to " bhogra " land.

Exception of bhogra.

*Explanation.*—For the purposes of this section a transfer includes a mortgage and a lease.

46. (1) When an occupancy-tenant dies his right in his holding shall devolve as if it were land :

Devolution of occupancy-right.

Provided that, except in the districts of Chánda, Nimár and Sambalpûr a collateral relative of the tenant shall not be entitled to inherit that right, unless at the death of the tenant he was a co-sharer in the holding or unless, failing any such co-sharer, he held land, or was permanently resident in the village in or from which the holding is cultivated, and is in the male line of descent from an ancestor who occupied the holding.

(2) Save in pursuance of a document duly registered before the commencement of this Act, no decree or order shall be passed for the sale of the right of an occupancy-tenant in his holding, nor shall such right be sold in execution of any decree or order.

Exemption of occupancy-rights from Court sales.

(3) No occupancy-tenant shall be entitled to sell, make a gift of, mortgage, sub-let (except for a period not exceeding one year) or otherwise transfer his right in his holding or in any portion thereof, and every such sale, gift, mortgage, sub-lease (other than for a period not exceeding one year) or transfer shall be voidable in the manner and to the extent provided by the two next following sections :

Prohibition of transfer of occupancy-rights.

Provided that an occupancy-tenant may transfer his right of occupancy to any person who, if he survived the tenant, would inherit the right of occupancy, or to any person in favour of whom as a co-sharer the right of occupancy originally arose or who has become by succession a co-sharer therein.

Provided, also, that nothing in this section shall affect the right of the Government to sell the right of an occupancy-tenant in his holding for the

<sup>1</sup> This sub-section (6) was substituted, with effect from the commencement of Act XI of 1898 by the Central Provinces Tenancy (Amendment) Act, 1899 (XXI of 1899), *infra* p. 171. The original sub-section was as follows :—

" (6) Nothing in this section shall affect a document expressly providing for the transfer of the right to occupy sîr-land as a proprietor, and duly registered before the commencement of this Act or shall apply to a surrender or a transfer made, decreed or ordered in pursuance of such a document."

recovery of an advance made to him under the <sup>1</sup> Land Improvement Loans Act, 1883, or the <sup>1</sup> Agriculturists' Loans Act, 1884, or the right of the purchaser at such sale to succeed to the holding.

Prohibition of contracts for future sub-leases.

(4) No contract for the sub-lease of a holding or any portion thereof shall be entered into or made during the currency of a sub-lease of such holding or such portion thereof; and every such contract shall be voidable in the manner and to the extent provided by the two next following sections.

Prohibition of registration of documents transferring occupancy-rights.

(5) Notwithstanding anything contained in the <sup>2</sup> Indian Registration Act, 1877, no officer empowered to register documents shall admit to registration any document which purports to transfer the right of an occupancy-tenant in his holding or in any portion thereof, unless the document recites that the transferee is a person who, if he survived the tenant, would inherit the right of occupancy, or is a person in favour of whom as a co-sharer the right of occupancy originally arose or who became by succession a co-sharer therein.

Rights of certain persons to apply to set aside transfers.

47. (1) If an occupancy-tenant transfers any portion of his right in any land in contravention of the provisions of the last foregoing section, any such person as would be entitled to inherit his right in the holding in the event of his death without nearer heirs, or the landlord from whom the tenant held the land, may, on application to a Revenue-officer, made within two years from the date on which in pursuance of the transfer the tenant parted with possession of the land, be placed in possession, subject, so far as the Revenue-officer may, in accordance with rules <sup>3</sup> made by the Local Government, determine, to his acceptance of the liabilities of the transferring tenant for arrears of rent and for advances made by the landlord or other persons for the necessary expenses of cultivation.

(2) As among several persons so entitled and being desirous of being placed in possession, the right to be so placed shall accrue in the order in which such persons would have inherited the right of the tenant in the subject of the transfer if the tenant had died. Failing any such persons, the right shall accrue to the landlord.

Procedure on application.

48. When any such application as aforesaid is made, the Revenue-officer shall issue a notice to all persons who seem to him *prima facie* to have a right equal or prior to that of the applicant, and shall also cause local proclamation to issue in the village in or from which the holding was cultivated, inviting all persons claiming to be heirs of the tenant who made the transfer to appear before him on a date to be fixed; and shall, after hearing such of the persons to whom notice was issued as may appear, and any other persons who may

<sup>1</sup> General Acts, Vol. III.

<sup>2</sup> See now the Indian Registration Act, 1908 (XVI of 1908), General Acts, Vol. VI.

<sup>3</sup> For rules under s. 47 in conjunction with ss. 36 and 71, see Central Provinces Local Rules and Orders.



apply to be heard in the matter, decide whom from among such of them as desire to be placed in possession is first entitled to be so placed :

Provided that in the case of a sub-lease, if the tenant who made the sub-lease appears and pays within such period as the Revenue-officer may determine the amount of the consideration, if any has passed, for which the sub-lease was made and the cost of the applicant if he would otherwise have been successful, the Revenue-officer may replace the tenant himself in possession of the land, if he is satisfied that the tenant made the sub-lease in ignorance of the law and is able and willing to cultivate the holding.

49. The rent of the holding of every occupancy-tenant shall be fixed by the Settlement-officer at each settlement of the area in which the holding is comprised.

Rent of occupancy-tenant to be fixed at settlement.

50. (1) In the districts of Chánda, Nimár and Sambalpúr, the rent fixed under section 49 shall not be altered during the currency of any settlement except under section 13, section 14, section 15 or section 17.

Fixation of rents during currency of settlement in Chánda, Nimár and Sambalpúr.

(2) The rent payable in respect of his holding by a tenant in any of those districts at the commencement of this Act shall be deemed to have been fixed at the current settlement of the area in which that holding is comprised.

(3) Subject to the provisions of sections 13, 14, 15 and 17, the rent payable by any such tenant in respect of a holding acquired by him after the commencement of this Act shall, pending the recurrence of the settlement of the area in which that holding is comprised, be the rent fixed by agreement between him and his landlord at the time he acquired that holding, or, in the absence of any such agreement, or on the expiration of the term for which any such agreement has been made, a rent fixed by a Revenue-officer on the application of either party at the following rate, that is to say :—

- (a) in the districts of Chánda and Nimár, the rate which the local Government has prescribed for occupancy-tenants and caused to be entered in the record-of-rights at the current settlement ;
- (b) in the district of Sambalpúr, the average rate at which at the current settlement the rents of other lands in the same village of similar quality and possessing similar advantages were fixed.

51. The rate of rent payable in money by an occupancy-tenant in any other district may, during the currency of a settlement on the application of the landlord to a Revenue-officer, be enhanced, subject to any rules<sup>1</sup> made under this Act for the local area in which the holding is situate and for the time being in force :

Enhancement during settlement in other districts.

<sup>1</sup> For rules under s. 51, see Central Provinces Gazette, 1899, Supplement, p. 333 *et seq.*

Provided that—

(a) an application under this section shall not be entertained when, within the ten years immediately preceding the application, the rent of the holding has been fixed at any settlement or under any of the other provisions of this Act, except those of sections 13, 14 or 15, or a suit or application to enhance it has been dismissed on the merits; and

(b) no order shall be made on any such application which is inconsistent with any contract made after the current settlement and still in force, such contract being consistent with this Act.

Grounds for  
ejection.

52. Notwithstanding any contract to the contrary or any provision of a record-of-rights, an occupancy-tenant shall not be ejected from his holding by his landlord as such except—

(a) as hereinafter provided for arrears of rent; or

(b) in execution of a decree of a Civil Court passed on the ground of his having diverted the land to non-agricultural purposes or being chargeable with some other act or omission which, by custom not inconsistent with this Act or with any other enactment for the time being in force, renders him liable to be ejected.

Tenant  
changing  
land in  
accordance  
with village  
custom.

53. A tenant having a right of occupancy in land situate in a village in which the holdings of tenants are by custom liable to periodical redistribution and exchanging that land in accordance with the custom for other land situate in the same village, shall be deemed to have a right of occupancy in the land so taken in exchange.

Tenant  
changing land  
in other cases.

54. If a tenant having a right of occupancy in any land ceases to hold that land, and thereupon commences to hold other land of the same landlord, under circumstances from which it may be inferred that the tenant has accepted that other land in lieu of, and on the same conditions as, the land which he has ceased to hold, he shall, in the absence of a written agreement to the contrary, be deemed to have a right of occupancy in the land which he so commences to hold.

## CHAPTER V.

### OF VILLAGE-SERVICE-TENANTS.

Definition of  
"village-ser-  
vice-tenants."

55. A tenant of a holding who is recorded in the papers of the current settlement of the area in which the holding is comprised as holding his land rent-free or on favourable terms on condition of rendering village service is a village-service-tenant.

Devolution  
and transfer

56. (1) When a village-service-tenant dies, resigns or is lawfully dismissed his right in his village-service-holding shall pass to his successor in office:

Provided that the Local Government may, by general or special order, direct that, where, on the resignation, dismissal or death of a village-watch-man or patwārī, his successor in office is not his heir, the village-service-tenure shall cease, in which case the holding shall be retained in occupancy-tenant-right by the late village-service-tenant or shall devolve in occupancy-tenant-right on his heir, as the case may be, at a rent which for the remainder of the term of the current settlement shall be that determined at such settlement as the rental value of the holding.

(2) A transaction by which a village-service-tenant attempts to effect a transfer of his interest in his village-service-holding by sale, gift, mortgage, sub-lease or otherwise except by a sub-lease for a period not exceeding one year shall be void, and the village-service-tenant shall be liable to be ejected for such attempt.

(3) The right of a village-service-tenant shall not be sold in execution of a decree.

57. If a village-service-tenant is unable to render the service which he is bound to render, he shall provide a competent person to render it for him.

58. (1) A village-service-tenant shall not be ejected from his holding except in execution of an order for ejection passed by a Revenue-officer on one of the following grounds, namely:—

Obligation of village-service-tenant to provide substitute. Grounds on which a village-service-tenant may be ejected.

- (a) that the tenant has attempted to effect a transfer of his holding in contravention of section 56, sub-section (2) ;
- (b) that the tenant has ceased to render the service which he is bound to render, or has failed to render it properly, or, being unable to render it himself, has failed to provide a competent person to render it as required by section 57 ;
- (c) that the tenant has diverted his land to non-agricultural purposes or is chargeable with some other act or omission which, by local custom or the provisions of the village wajib-ul-arz, renders him liable to be dismissed from office ;
- (d) that the tenant has resigned, or been dismissed from, his office.

(2) When a village-service-tenant is ejected from his holding under this section, or when he dies or resigns or is dismissed from his office, a Revenue-officer may, subject to any order issued under the proviso to section 56, sub-section (1), place his successor in office in possession of the holding ; and when a village-service-tenant is ejected from, or loses possession of, his holding otherwise than in accordance with this section, a Revenue-officer may reinstate him in the possession of his holding and eject any transferee or trespasser who may be in wrongful possession thereof.

## CHAPTER VI.

## OF SUB-TENANTS.

Definition of  
"sub-tenant."

59. A tenant who is not an absolute occupancy-tenant or an occupancy tenant and who holds land from another tenant or from a *málik-mákbúzá* or from the holder of a survey-number, is a sub-tenant of that land.

Tenure  
according to  
agreement.

60. A sub-tenant shall, subject to the provisions of sections 6, 15 and 16, hold on such terms as may be agreed upon between him and his landlord :

Provided that, notwithstanding any agreement to the contrary, a lease granted to a sub-tenant by an occupancy or an ordinary tenant shall not be valid for a period exceeding one year.

Power to  
declare  
sub-tenants  
in certain  
cases to have  
rights of  
ordinary  
tenants.

61. (1) In any local area in which the Local Government may by <sup>1</sup> notification in the local official Gazette declare this section to be in force, a sub-tenant holding from a tenant who is proved to the satisfaction of a Revenue-officer or Settlement-officer to habitually sub-let the land held by the sub-tenant and to manage it solely with a view to the obtaining of rent may, subject to such rules as the Local Government may prescribe, be declared by such Revenue-officer or Settlement-officer to have all the rights conferred by this Act on an ordinary tenant, and shall thereupon be deemed to have such rights both as against the sub-letting tenant and as against the landlord from whom the latter holds :

Provided that no such declaration shall be made within one year after the commencement of this Act or in the case of a sub-tenant holding under a lease registered before the commencement of this Act or until an opportunity has been given to the sub-letting tenant to show cause against it.

(2) When a sub-tenant has been declared under this section to have the rights of an ordinary tenant, so much of the rent payable by him as is equal to the rent payable to the proprietor by the tenant from whom he holds on account of the land sub-let to him shall be rendered by him to the proprietor direct, and the balance shall be rendered by him to the tenant from whom he holds.

(3) If a tenant regarding whose land a declaration under this section has been made dies without heirs or surrenders his holding, the sub-tenant shall be deemed to hold direct from the landlord at the total rent paid by him for the land at the time of such death or surrender.

Sub-tenants  
holding from  
a *málik-mákbúzá*  
may in  
certain cases  
be declared to  
be ordinary  
tenants.

<sup>2</sup> [61-A. Subject to any rules which the Chief Commissioner may make in this behalf, a sub-tenant holding land from a *málik-mákbúzá* who is a member of the proprietary body of the mahal in which such land lies, may, if it is proved to the satisfaction of a Revenue-officer that such land is habitually sublet or managed solely with a view to obtaining rent, be declared by such

<sup>1</sup> For notification extending s. 61 to certain districts, see Central Provinces Local Rules and Orders.

<sup>2</sup> Section 61-A was inserted by the Central Provinces Tenancy (Amendment) Act, 1917 (C. P. Act, III of 1917), *infra* p. 470.

Revenue-officer to have all the rights conferred by this Act on an ordinary tenant, and shall thereupon be deemed to have such rights against the *málik-mákbúzá*.]

## CHAPTER VII.

### OF ORDINARY TENANTS.

62. (1) Every tenant who is not an absolute occupancy-tenant, or an occupancy-tenant, or a village-service-tenant or a sub-tenant, is an ordinary tenant. Definition of "ordinary tenant."

(2) In any local area in which the Local Government may by <sup>1</sup> notification in the local official Gazette, declare that the provisions of this sub-section are in force, where a person cultivates land not being *sír-land* under an agreement made with the proprietor of the land and purporting to be an agreement for the cultivation of the land by such persons and such proprietor in partnerships, such person is an ordinary tenant of the land so cultivated by him, and notwithstanding any contract to the contrary, the rent payable by him for the land shall be fixed by the Revenue-officer on application made by him or his landlord.

63. (1) A Settlement-officer shall, unless the Local Government otherwise directs, fix the rents payable by the ordinary tenants of a *mahál* other than ordinary tenants whose holdings consist entirely of *sír-land*, and, on and from the date on which the land revenue assessment takes effect, the landlord shall be entitled to recover only the rents so fixed. Landlord's right to recover rent determined at settlement as payable by ordinary tenants.

(2) The rents fixed under sub-section (1) shall be recorded in the proceedings of the Settlement-officer and a copy of the record shall be granted free of expense to the landlord.

(3) When by reason of the receipt by the landlord of any consideration whether in money or otherwise, a tenant is holding at a rent lower than that fixed by the Settlement-officer under sub-section (1), the Settlement-officer may, notwithstanding anything in this Act, declare him to be entitled to hold at such lower rent,—

- (a) if the term is fixed by contract, for the term so fixed or for any shorter period;
- (b) in other cases, for such term as the Settlement-officer, having regard to the circumstances, fixed as fair and equitable;

and the term for which the tenant is declared to be so entitled shall be entered in the record made under sub-section (2):

Provided that in no case shall the tenant be entitled to hold at such lower rent for a period longer than for which the settlement is being made, and

<sup>1</sup> For notifications extending s. 62 see Central Provinces Local Rules and Orders.

at the expiry of the settlement, he shall not be entitled to a continuance of the privilege.

Notice of  
enhancement  
to be served  
through  
Revenue-  
officer.

64. When a landlord wishes to enhance the rent of an ordinary tenant whose holding does not consist entirely of sîr-land and whose rent is not fixed, by an agreement in writing, and the tenant does not agree to the enhancement the landlord may cause to be served on the tenant through a Revenue-officer a notice of the enhancement not less than six months or more than twelve months before the commencement of the agricultural year in which the landlord desires the enhancement to take effect.<sup>1</sup>

Liability of  
tenant to  
ejectment in  
default of his  
agreeing to  
enhancement.

65. (1) If, within the period of one month from the service of a notice under the last foregoing section, the tenant on whom the notice has been served presents to the Revenue-officer issuing the notice a statement in writing declaring his willingness to pay the enhanced rent, he shall be deemed to have agreed to pay that rent from the commencement of the agricultural year next following.

(2) If the tenant does not within the said period of one month, present to the Revenue-officer a statement as aforesaid, the landlord may, not less than ten weeks before the commencement of the agricultural year next following, apply to the Revenue-officer to eject the tenant.

Procedure in  
ejectment  
suit.

66. (1) If, when an application has been made under sub-section (2) of the last foregoing section, the tenant appears and agrees to pay the enhanced rent demanded, his agreement shall thereupon be recorded, and he shall not be ejected but shall be liable to pay that rent from the commencement of the agricultural year next following the date of the landlord's application under section 65, sub-section (2).

(2) If the tenant fails to appear, or if, on appearing, he does not agree to pay the enhanced rent demanded, the Revenue-officer shall determine what rent is fair and equitable for the holding: Provided that, save where in the Revenue-officer's opinion the existing rent is merely nominal, the rent so determined shall not exceed the existing rent by more than thirty-three per cent.

(3) If the tenant agrees to pay the rent so determined, he shall be entitled to remain in occupation of the holding at that rent from the commencement of the agricultural year next following the date of the landlord's application under section 65, sub-section (2).

(4) If the tenant does not agree to pay the rent determined under sub-section (2), the Revenue-officer may make an order for his ejectment, subject to the provisions of sections 88 and 89 and subject to the deposit by the landlord, within a month from the date of the order, of the amount

<sup>1</sup> For rules as to the enhancement of rent under ss. 64 and 65, see Central Province Local Rules and Orders.

of compensation (if any), determined as due to the tenant under section 32. If such amount is not so deposited, the order for ejectment shall become void.

67. An ordinary tenant shall, subject to the provisions of sections 13, 14, 15, 16, 63, 66 and 78, pay such rent as may, from time to time, be fixed by agreement between him and his landlord.

Rent of ordinary tenant regulated by agreement.

68. When the rent of a tenant has been fixed by a Settlement-officer under section 63, or where a tenant has agreed to pay an enhanced rent for his holding under section 65, or when a tenant is holding at a rent fixed as fair and equitable under section 66 or section 78, or when a rent has been agreed upon by contract or consent between the landlord and his tenant in respect of any holding, or when an order under section 66 to eject a tenant from his holding has become void from failure of the landlord to deposit the amount of compensation (if any), determined as due to the tenant under section 32, no notice of enhancement under section 64 shall be served on such tenant in respect of such holding, nor shall any further enhancement, by contract or consent or otherwise, in respect of such holding be permissible, for a period of seven years from the date on which the settlement made by the Settlement-officer took effect, or from the date of such fixation, agreement, contract or consent, or from the date of such order for ejectment becoming void, as the case may be :

Fresh proceedings not to be taken for seven years.

Provided that, where a tenant is holding land under special contract with his landlord at a favourable rent for a term of years in consideration of temporary deterioration, or of the labour or expense involved in the reclamation by such tenant of the land from waste, nothing in this section shall be construed to prevent a fair rent being fixed or agreed upon after the expiration of the term of such contract.

69. Notwithstanding any contract to the contrary or any provision of a record-of-rights, an ordinary tenant shall not be ejected from his holding by his landlord as such except—

Grounds on which an ordinary tenant may be ejected.

- (a) as provided in the case of an occupancy-tenant by section 52;
- (b) in accordance with the provisions of section 66;
- (c) in execution of a decree for ejectment passed on the ground that his holding consists entirely of sîr-land.

70. (1) When an ordinary tenant dies, his right in his holding shall devolve as if it were land :

Devolution of ordinary tenancy.

Provided that a collateral relative of the tenant shall not be entitled to inherit his right unless at the death of the tenant he was a co-sharer in the holding.

(2) Save in pursuance of a document duly registered before the commencement of this Act, no decree or order shall be passed for the sale of the right of

Exemption of ordinary tenant rights

from Court  
sales.

an ordinary tenant in his holding, nor shall such right be sold in execution of any decree or order.

Prohibition  
of transfer  
of ordinary  
tenant-rights.

(3) No ordinary tenant shall be entitled to sell, make a gift of, mortgage, sub-let (except for a period not exceeding one year) or otherwise transfer his right or holding or any portion thereof; and every such sale, gift, mortgage, sub-lease (other than for a period not exceeding one year) or transfer shall be voidable in the manner and to the extent provided by the two next following sections:

Provided that nothing in this sub-section shall affect the right of the Government to sell the right of an ordinary tenant in his holding for the recovery of an advance made to him under the <sup>1</sup> Land Improvement Loans Act, 1883, or the <sup>1</sup> Agriculturists' Loans Act, 1884, or the right of the purchaser at such sale to succeed to the holding. XIX of 188  
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Prohibition of  
contracts for  
future sub-  
leases.

(4) No contract for the sub-lease of a holding or any portion thereof shall be entered into or made during the currency of a sub-lease of such holding or such portion thereof; and every such contract shall be voidable in the manner and to the extent provided by the two next following sections.

Prohibition of  
registration  
of documents  
transferring  
ordinary  
tenant-rights.

(5) Notwithstanding anything contained in the <sup>2</sup> Indian Registration Act, 1877, no officer empowered to register documents under that Act, shall admit to registration any document which purports to transfer the right of an ordinary tenant in his holding or in any portion thereof. III of 187

Right of  
certain  
persons to  
apply to set  
aside  
transfers.

71. (1) If an ordinary tenant transfers any portion of his rights in any land in contravention of the provisions of the last foregoing section, any such person as would be entitled to inherit his right in the holding in the event of his death without nearer heirs, or the landlord from whom the tenant held the land, may on application to a Revenue-officer made within two years from the date on which, in pursuance of the transfer, the tenant parted with possession of the land, be placed in possession, subject, so far as the Revenue-officer may, in accordance with rules <sup>3</sup> made by the Local Government, determine, to his acceptance of the liabilities of the transferring tenant for arrears of rent and for advances made by the landlord or other persons for the necessary expenses of cultivation.

(2) As among several persons so entitled and being desirous of being placed in possession, the right to be so placed shall accrue in the order in which such persons would have inherited the right of the tenant in the subject of the transfer if the tenant had died. Failing any such persons, the right shall accrue to the landlord.

<sup>1</sup> See General Acts, Vol. III.

<sup>2</sup> See now the Indian Registration Act, 1908 (XVI of 1908), General Acts, Vol. VI.

<sup>3</sup> For rules under s. 71 in conjunction with ss. 36 and 47, see Central Provinces Local Rules and Orders.



27. When any such application as aforesaid is made, the Revenue-officer shall issue a notice to all persons who seem to him *prima facie* to have a right equal or prior to that of the applicant, and shall also cause local proclamation to issue in the village in or from which the holding was cultivated, inviting all persons claiming to be heirs of the tenant who made the transfer to appear before him on a date to be fixed ; and shall, after hearing such of the persons to whom notice was issued as may appear, and any other persons who may apply to be heard in the matter, decide who from among such of them as desire to be placed in possession is first entitled to be so placed :

Provided that in the case of a sub-lease, if the tenant who made the sub-lease appears and pays within such period as the Revenue-officer may determine the amount of the consideration, if any has passed, for which the sub-lease was made, and the costs of the applicant if he would otherwise have been successful, the Revenue-officer may replace the tenant himself in possession of the land, if he is satisfied that the tenant made the sub-lease in ignorance of the law and is able and willing to cultivate the holding.

73. (1) Notwithstanding any contract to the contrary, the landlord of any holding held by an ordinary tenant shall, at the request of the tenant and on the tender by the tenant to him of a sum equal to two-and-a-half times the annual rent payable in respect of the holding, together with the cost of preparing any instrument required for this purpose, confer upon the tenant the rights of an occupancy-tenant in respect of the holding ; and when those rights have so been conferred, the rent of the tenant shall be deemed to be fixed under this Act, within the meaning of section 51, at the rate at which rent was payable by the tenant at the date of the request and tender :

Obligation of landlord to confer occupancy-rights on ordinary tenant.

Provided that the tenant may, for the purposes of any such request and tender, and the landlord may, upon any such request and tender being made to him, apply to a Revenue-officer, or during the progress of settlement-operations to a Settlement-officer, to fix the rent of the holding for the purposes of this section ; and, if it is proved to the satisfaction of the officer that the rate of rent payable in respect of the holding is greater or less than the rate usually paid by ordinary tenants of holdings situate in the village or vicinity for land of similar quality with like advantages, the officer may fix the rent at the latter rate, and the rent so fixed shall for the purposes of this section be deemed to be, and to have been at the date of the request and tender, the rent payable by the tenant :

Provided, further, that, if the application is made otherwise than during the progress of settlement operations, nothing in this section shall be construed to empower a Revenue-officer to alter a rent within seven years of its having been fixed under any of the provisions of this Act, except on the

ground that some such change as is described in section 15 has since occurred so as to render the rent so fixed no longer a fair rent.

(2) If a landlord to whom a request and tender are made by a tenant under sub-section (1), refuses or neglects for a period of one month to confer the rights of an occupancy-tenant, on the tenant, the tenant may deposit the sum aforesaid in the Court of a Revenue-officer, or, during the progress of settlement-operations, of a Settlement-officer, and apply to that officer to confer upon him the rights of an occupancy-tenant in respect of the holding.

(3) The officer so applied to, after giving notice of the application to the landlord and hearing him, if he appears, and after making such enquiry as he thinks necessary, may execute any instrument required for conferring the rights of an occupancy-tenant in respect of the holding upon the tenant, and the execution shall have the same effect as an execution by the landlord.

(4) Every person upon whom the rights of an occupancy-tenant are conferred under this section shall be deemed to be an occupancy-tenant for the purposes of this Act.

(5) Nothing in this section shall apply to a holding consisting entirely of sir-land.

## CHAPTER VIII.

### JURISDICTION AND PROCEDURE.

Power to direct that suits between landlords and tenants be entered in separate registers. Plaint in such suits.

74. The Local Government may<sup>1</sup> direct that all suits, or any specified class of suits, between landlords and tenants as such, shall not be registered in the registers of civil suits kept under the<sup>2</sup> Code of Civil Procedure, but in XIV of 18 such other registers as it may prescribe.

75. (1) In suits between landlords and tenants as such, the plaint shall, in addition to the matters mentioned in section 50 of the Code of Civil Procedure, specify the area of the land to which the suit relates, and, where XIV of 11 the fields comprised in that land have been numbered in a Government survey, the number of each such field; and, in the case of suits for an arrear, the amount of the yearly rent and the instalments in which it is payable.

(2) When the land to which the suit relates comprises parts of numbered fields or has not been divided into numbered fields, an accurate and sufficient description of the land and its boundaries shall be given in the plaint.

Legal practitioner's fees not allowed unless for special reasons.

76. In suits between landlords and tenants as such, the fees of a legal practitioner shall not be allowed as costs unless the Court considers, for reasons to be recorded by it in writing, that those fees ought to be allowed.

<sup>1</sup> For notification under s. 74 as to registering Tenancy suits in a separate register, see Central Provinces Local Rules and Orders.

<sup>2</sup> See now the Code of Civil Procedure, 1908 (Act V of 1908).

77. No set-off shall be allowed in any suit for arrears unless the amount claimed as a set-off has been determined by a decree or order of a competent Court or of a Revenue-officer or Settlement-officer.

Set-off when allowed in suits for arrears.

78. (1) If in any suit in which the defendant is an ordinary tenant whose holding does not consist entirely of sir-land the tenant appears and, at any time before a decree is passed, pleads that his rent is excessive, the Court shall inquire into the circumstances of the rent.

Procedure when ordinary tenant in suit pleads excessive rent.

(2) If the Court finds that the rent payable by the tenant has been enhanced by contract or consent above the rent determined by a Settlement-officer at the current settlement or by a Revenue-officer under this Act, or, when not so determined, above the rent at which the holding was first taken up by the tenant, or, if the rent payable was determined by a Settlement-officer in proceedings taken before the commencement of this Act only after the land lord had refused to comply with the request of the Settlement-officer to reduce it, the Court may stay proceedings and refer the case to a Revenue-officer, who shall thereupon fix what rent is fair and equitable for the holding. If the rent so fixed is equal to or more than the rent previously payable, the Court shall decree the arrears claimed and proved. If the rent so fixed is less than the rent previously payable, the Court shall decree against the tenant arrears of rent on account of any year, only to the extent of the amount (if any) by which his payments for that year fell short of the rent so fixed. The tenant shall be entitled to remain in occupation at a rent fixed under this sub-section from the commencement of the agricultural year next following the date of the institution of the suit.

(3) If the Court finds that the rent, in respect of which the plea is made by the tenant, was not enhanced or determined in the manner described in sub-section (2), but was the rent at which the tenant first took up the holding from the landlord, the Court shall pass a decree for such sum as may be due at the rent so payable, but may, before or after passing the decree, refer the case to a Revenue-officer, who shall thereupon fix what is a fair and equitable rent for the holding, and, if the tenant pays the amount decreed within one month of the date on which the rent is so fixed, he shall be entitled to remain in occupation of his holding at the rent so fixed with effect from the commencement of the agricultural year next following the date of the institution of the suit.

*Explanation I.*—Nothing in this section shall be construed to authorise a Revenue-officer to determine a rent higher than that payable by the tenant at the date of the institution of the suit except from the commencement of the agricultural year next following the date of the institution of the suit, and on the formal application of the landlord.

*Explanation II.*—A statement made during the progress of settlement-operations by the Settlement-officer, and contained in any return or report prescribed by the Local Government, to the effect that a landlord refused to reduce any rent, shall be conclusive proof of such refusal.

Tenants' improvements how to be treated in fixing rents.

79. When the land in respect of which an application is made under section 50 or section 51, or for which a fair rent is to be determined under section 66 or section 78, has been improved, in accordance with the provisions of this Act, by the agency, or at the expense, of the tenant, and such improvement was made during the term of the current settlement or the term of the settlement immediately preceding it, the quality and advantages of the land, as cultivated land, shall, notwithstanding anything contained in any contract or record-of-rights to the contrary, be deemed, for the purposes of any such section as aforesaid, to be the quality and advantages which the land would have had and enjoyed if the improvement had not been made.

Interest on arrears.

80. In suits for arrears, interest on the arrears may be allowed up to the date of institution, at such rate, not exceeding twelve per cent. per annum, as the Court thinks fit.

No appeal in certain suits for arrears.

81. A decree or order passed in a suit for arrears, whether on appeal or otherwise, by a Judge of a Civil Court exercising powers not less than those of an Assistant Commissioner of the first class as defined in the Central Provinces Civil Courts Act, 1885,<sup>1</sup> shall not be subject to appeal, unless :— XVI of 18

(a) the amount or value of the subject-matter of the suit exceeds one hundred rupees ; or

(b) a question relating to a title to land or some interest in land, has been determined as between parties having conflicting claims thereto.

Application for execution by sale of holding or by ejectment.

82. An application for the execution of a decree for an arrear of rent by sale of the holding in respect of which the arrear accrued or by ejectment of the tenant shall contain a statement showing the tahsil and village in which the holding is situate, the numbers borne in the village rent-roll by the fields constituting the holding, the rent annually payable, and the years in which the decreed arrears accrued.

Arrears decreed not to be on current year's account.

83. No such application as is referred to in the foregoing section shall be admitted until after the expiration of the year in which the arrear, or any part of the arrear, accrued.

Procedure in execution by sale of holding.

84. (7) A decree for arrears of rent due in respect of an absolute occupancy-holding shall, if sale of such holding be ordered in execution, be executed as if it ordered sale in pursuance of a contract specifically affecting the

<sup>1</sup>Act XVI of 1885 was repealed and re-enacted by the Central Provinces Courts Act, 1904, (II of 1904), which has in turn been repealed by the Central Provinces Courts Act, 1917 (I of 1917), *infra*, p. 386.

of 1882. holding, and shall under section 320 of the Code of Civil Procedure<sup>1</sup> be transferred to the Collector for execution.

(2) The Collector executing the decree may, notwithstanding anything of 1882. contained in section 305 of the Code of Civil Procedure<sup>1</sup> allow the tenant time in which to pay the amount due : Provided that any period, or the aggregate of any periods, so allowed shall, subject to any general or special orders which may be issued by the Local Government, not exceed two months.

85. (1) A decree for an arrear of rent due in respect of an occupancy or ordinary holding or a holding held by a sub-tenant may be executed by the Procedure in execution by ejectment. ejectment of the tenant : Provided that, notwithstanding anything contained of 1882. in the Code of Civil Procedure,<sup>1</sup> an order for the ejectment of a tenant in execution of such a decree shall be transferred to a Revenue-officer for execution.

(2) The Revenue-officer on receiving the decree shall cause a notice to be served upon the tenant stating the date of the decree, the amount due thereunder and the numbers borne in the village rent-roll by the fields constituting the holding, and informing him that if he does not pay into Court within a month from date the amount due he will be ejected from his holding.

(3) If the amount due is not paid within the period appointed, the Revenue-officer may, subject to the provisions of sections 32, 88 and 89, eject the tenant or may, after such enquiry as he deems necessary, postpone ejectment in order to allow the tenant time for payment : Provided that any period, or the aggregate of any periods, so allowed shall subject to any general or special orders which may be issued by the Local Government not exceed in the case of an occupancy-holding or an ordinary holding not consisting entirely of sîr-land, four months, or in the case of an ordinary holding consisting entirely of sîr-land or a holding held by a sub-tenant, one month.

(4) The Local Government may make rules<sup>2</sup> for the guidance of Revenue-officer executing decrees under this section.

86. (1) Where, in answer to a suit for an arrear, the tenant admits that the arrear is due, but pleads that the produce of his holding during the period in respect of which the arrear is claimed has been diminished or destroyed by drought, hail or other extraordinary calamity beyond his control, the Court in its discretion may, notwithstanding any contract to the contrary, allow in its decree any deduction from the arrear, and direct payment of the amount decreed (if any) in such instalment (if any) as it thinks fit.

Power of Court to deal with cases of drought or other calamity in suits for arrears.

<sup>1</sup> See now the Code of Civil Procedure, 1908 (Act V of 1908).

<sup>2</sup> For rules under s. 85 (4), see the Central Provinces Local Rules and Orders.

(2) In any such case the Court may order that the provisions of sections 84 and 85 shall not apply to the decree.

(3) In making a decree under this section the Court shall have regard to—

(a) the value of the produce of the holding for the whole agricultural year in respect of which the arrear accrued ; and

(b) the proportion which the amount of rent payable for that year by the tenant bears to that value.

(4) If in any such suit it appears that the land-revenue of the village in which the holding is situate has been, wholly or in part, suspended or remitted on account of drought, hail or other extraordinary calamity in respect of the period for which the arrear is claimed, the Court shall presume, until the contrary is shown, that the diminution or destruction alleged by the tenant has taken place.

Relief against  
forfeitures.

87. (1) A suit for the ejectment of a tenant on the ground that he has done or omitted to do something for doing or omitting to do which he is liable to ejectment, or that he has broken a condition on breach of which he is, under the terms of a contract between him and the landlord, liable to ejectment, shall not be entertained unless the landlord has requested the tenant, where the damage or breach is capable of remedy, to remedy the same, and, in any case, to pay reasonable compensation for the damage or breach, and the tenant has failed to comply within a reasonable time with that request.

(2) A decree passed in favour of a landlord in any such suit shall declare the amount of compensation which would reasonably be payable to the plaintiff for the damage or breach, and whether, in the opinion of the Court, the damage or breach is capable of remedy, and shall fix a period during which it shall be open to the defendant to pay that amount to the plaintiff, and, where the damage or breach is declared to be capable of remedy, to remedy the same.

(3) The Court may, from time to time, extend a period fixed by it under sub-section (2) for remedying a damage or breach.

(4) If the defendant, within the period or extended period (as the case may be) fixed by the Court under this section pays the compensation mentioned in the decree, and, where the damage or breach is declared by the Court to be capable of remedy, remedies the damage or breach to the satisfaction of the Court, the decree shall not be executed.

Rights of  
ejected  
tenants in  
respect of  
crops and land  
prepared for  
sowing.

88. The following rules shall be applicable in the case of every tenant ejected from a holding :—

(1) When the tenant has, before the date of his ejectment, sown or planted crops in any land comprised in the holding, he shall be entitled, at the option of the landlord, either to retain possession of that land and to use

it for the purpose of tending and gathering in the crops, or to receive from the landlord the estimated value of the labour and capital expended by the tenant in preparing the land and sowing, planting and tending the crops, together with reasonable interest thereon.

(2) When the tenant has, before the date of his ejectment, prepared for sowing any land comprised in his holding, but has not sown or planted crops on that land, he shall be entitled to receive from the landlord the estimated value of the labour and capital expended by him in so preparing the land, together with a reasonable interest thereon :

Provided that a tenant shall not be entitled to retain possession of any land or receive any sum in respect thereof under this section when, after the commencement of proceedings by the landlord for his ejectment, he has cultivated or prepared the land contrary to local usage :

Provided, also, that the rent, if any, payable to the landlord by the tenant at the time of ejectment may be set off against any sums payable to the tenant under this section.

89. When a landlord elects, under clause (1) of the last foregoing section, to allow a tenant to retain possession of any land for the purpose specified in that clause, the tenant shall pay to the landlord, for the use and occupation of the land during the period for which he is allowed to retain possession of the same, such rent as the Court or Revenue-officer may deem reasonable.

Payment by tenant for occupation of land under section 88.

90. In all suits for arrears of rent, the Court shall inquire into and determine all claims under this Act by the landlord against the tenant as such, or by the tenant against the landlord as such.

In suits for arrears all claims between landlord and tenant to be determined.

91. (1) When it appears to a Court making an inquiry under the last foregoing section that the amount payable by the landlord to the tenant as such exceeds the amount payable by the tenant to the landlord as such, the decree or order for sale or ejectment (if any) shall, unless the landlord and tenant come to an arrangement regarding the payment of the excess sum, specify a time within which it must be paid into Court.

Procedure when, on sale or ejectment, money is due by the landlord to the tenant.

(2) If it is so paid within the time specified, the Court shall, subject to the other provisions of this Act, make an order for the sale of the holding or the ejectment of the tenant ; and, if it is not so paid, the Court shall refuse to make such order.

92. Any tenant who has been ejected from his holding or from any portion thereof otherwise than in accordance with the provisions of this Act may, on application to a Revenue-officer made within one year from the date of his ejectment, be reinstated in possession of such holding or portion :

Reinstatement of tenant illegally ejected.

Provided that no order passed under this section shall prejudice the right of the landlord to eject the tenant so reinstated, or the right of a tenant

whose application for reinstatement is rejected to establish his title to his holding and to recover possession thereof by means of a regular suit :

Provided, also, that possession of a tenancy, or of any portion thereof, shall not be recoverable under section 9 of the <sup>1</sup> Specific Relief Act, 1877, I of 1877. by a tenant dispossessed thereof.

Application to measure or ascertain condition of holdings.

93. (1) If any landlord or tenant of a holding desires that the extent of that holding be ascertained, or that evidence relating to any improvement made in respect thereof or to the state of the holding at any specified time be recorded, he may apply to a Revenue-officer ; and that officer shall thereupon, in presence of the parties,—

(a) make or cause to be made such inquiry as he thinks fit, with a view to ascertaining the extent of the holding, and record his finding thereon or,

(b) (where the applicant seeks to have evidence recorded) record that evidence :

Provided that no action shall be taken by any Revenue-officer under this section if he considers that there are no reasonable grounds for making the application, or if the subject-matter thereof is under inquiry in a Civil Court.

(2) When any matter has been recorded under the section, the record shall be admissible in evidence in any subsequent proceedings between the landlord and tenant or any persons claiming under them.

Limitation in suits under the Act.

94. (1) The period of limitation for a suit instituted by a tenant other than an absolute occupancy-tenant to recover possession of land from which he has been ejected, shall be two years from the date on which he is ejected.

(2) Whenever rent is taken by division of the produce or by estimate or appraisement of the crops, and no application is made under section 19, no suit by the landlord for the recovery of the share of the produce claimed by him as rent, or the value thereof, shall lie unless such suit is instituted within a period of one year reckoned from the date on which the rent installment on account of the harvest to which the crop belongs fell due.

(3) In all other cases the limitation of every suit brought under this Act shall be governed by the <sup>2</sup> Indian Limitation Act, 1877 :

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Provided that nothing in sections 7, 8 and 9<sup>2</sup> of the said Act shall apply to suits for arrears of rent or for the ejectment of a tenant, or to suits for recovery of possession by a tenant against his landlord.

Jurisdiction of Civil Courts barred in certain cases.

95. Save where it is expressly provided to the contrary, no Court other than the Court of a Revenue-officer or Settlement-officer shall fix, alter or commute any rent or call in question any rent fixed by a Revenue-officer or

<sup>1</sup> General Acts, Vol. II.

<sup>2</sup> See now the Indian Limitation Act, 1908 (IX of 1908), ss. 6, 7, 8 and 9, General Acts, Vol. VI.



Settlement-officer, or shall take cognizance of any dispute or matter in respect of which authority is given by this Act to a Revenue-officer or Settlement-officer.

96. (1) In fixing rents and disposing of the matters referred to in the last foregoing section, Revenue-officers and Settlement-officers shall, as nearly as may be practicable, subject to the provisions of this Act and any rules <sup>1</sup> made thereunder, exercise the same powers and follow the same procedure as they exercise and follow under the <sup>2</sup> Central Provinces Land-revenue Act, 1881, as from time to time amended.

Procedure on applications to Revenue and Settlement-officers, and appeals from their orders.

III of  
L.

(2) From every decision or order of a Revenue-officer or Settlement-officer fixing rent or disposing of any matter referred to in the last foregoing section, an appeal shall lie as if that decision or order had been passed by that officer under the said Act.

97. Except as provided in section 95, the Civil Courts shall have jurisdiction in all suits between landlords and tenants as such :

Jurisdiction of Civil Courts in suits between landlords and tenants.

Provided that—

- (a) a Judge of a Civil Court of original jurisdiction shall not, unless he is also a Revenue-officer, or Settlement-officer hear any such suits ; and
- (b) the Local Government may, subject to the other provisions of this Act, <sup>3</sup> direct that all or any class of such suits shall be heard and determined only in such Courts competent to try the same as it thinks fit, and not otherwise.

98. Any sum due as fine or penalty under this Act shall be recoverable as if it were an arrear of land-revenue.

Recovery of fines and penalties.

## CHAPTER IX.

### SUPPLEMENTAL.

99. The Local Government may, by notification in the local official Gazette, make rules <sup>4</sup> for the purpose of carrying out the objects of this Act and prescribing the procedure and practice thereunder.

Power to Local Government to make rules.

100. The enactments mentioned in the Schedule are repealed to the extent specified in the fourth column thereof.

Repeals.

<sup>1</sup> For rules under s. 96, see Central Provinces Local Rules and Orders.

<sup>2</sup> Act XVIII of 1881 has been repealed and re-enacted by the Central Provinces Land Revenue Act, 1917 (II of 1917), *infra*, p. 400.

<sup>3</sup> For orders under s. 97 (b), see Central Provinces Local Rules and Orders.

<sup>4</sup> For rules under s. 99, see Central Provinces Local Rules and Orders.

*Tenancy.* [1898 : Act XI.  
*Canal and Drainage (Amendment).* [1899 : Act XVI.  
*Tenancy (Amendment).* [1899 : Act XXI.

### THE SCHEDULE.

ENACTMENTS REPEALED.

(See section 100.)

1	2	3	4
Year.	No.	Short title.	Extent of repeal.
1883	IX	The Central Provinces Tenancy Act, 1883.	The whole.
1889	XVII	The Central Provinces Tenancy Act, 1889.	The whole.
1891	XII	The Repealing and Amending Act, 1891.	So much as relates to Acts, IX of 1883 and XVII of 1889.

ACT No. XVI of 1899<sup>1</sup>.

[14th July, 1899.]

### An Act further to amend the Northern India Canal and Drainage Act, 1873.

WHEREAS it is expedient further to amend the Northern India Canal and Drainage Act, 1873 ; It is hereby enacted as follows :—

Short title.

1. (1) This Act may be called the Northern India Canal and Drainage (Amendment) Act, 1899 ;

(2) [Commencement.] *Rep. by Act XVII of 1914, s. 3 and 2nd Schedule.*

Addition to section 30, Act VIII, 1873.

2. To section 26 of the Northern India Canal and Drainage Act, 1873, VIII of the following paragraph shall be added, namely :—

[Fide supra, p. 49.]

Amendment of section 47, Act VIII, 1873.

3. In section 47 of the said Northern India Canal and Drainage Act, VIII of 1873, for the words “ or tenants ” the words “ tenants or sub-tenants ” shall be substituted.

ACT No. XXI of 1899.<sup>2</sup>

[8th September, 1899.]

### An Act to amend the Central Provinces Tenancy Act, 1898.

WHEREAS it is expedient to amend the Central Provinces Tenancy Act, XI of 1898 ; It is hereby enacted as follows :—

<sup>1</sup> For statement of Objects and Reasons, see Gazette of India, 1899, Pt. V, p. 71, and for Proceedings in Council, see *ibid.*, Pt. VI, pp. 184 and 188.

<sup>2</sup> For Statement of Objects and Reasons, see Gazette of India, 1899, Pt. V, p. 117, and for Proceedings in Council, see *ibid.* Pt. VI, pp. 196 and 206.

of 1898.

1. (1) This Act may be called the Central Provinces Tenancy (Amendment) Act, 1899 ; and

Short title  
and com-  
mencement.

(2) It shall come into force at once.

of 1898.

2. In section 45 of the Central Provinces Tenancy Act, 1898, for sub-section (6) the following sub-section shall be substituted and shall be deemed to have been substituted on and with effect from the commencement of the said Act, namely :—

Substitution  
of new sub-  
section for  
sub-section  
(6),  
section 45,  
Act XI, 1898.

[*Fide supra*, p. 151.]

# ACT No. XXIV OF 1899.<sup>1</sup>

[THE CENTRAL PROVINCES COURT OF WARDS ACT, 1899.]

[13th October, 1899.]

An Act to consolidate and amend the law relating to the Court of Wards in the Central Provinces.

WHEREAS it is expedient to consolidate and amend the law relating to the Court of Wards in the Central Provinces ; It is hereby enacted as follows :—

## Preliminary.

1. (1) This Act may be called the Central Provinces Court of Wards Act, 1899.

Short title,  
extent and  
commence-  
ment.

(2) It extends to the territories for the time being administered by the Local Government of the Central Provinces : and

(3) It shall come into force at once.

2. In this Act, unless there is anything repugnant in the subject or context,—

(a) the expression “ Government ward ” means any person of whose property, or of whose person and property, the Court of Wards may, for the time being, have the superintendence under this Act :

(b) “ land ” includes the rights of a land-holder in respect of the land of which he is the málguzář or zamíndár or the muáfídár, jagírdár, ubáridár or other assignee of land-revenue, or in which he is interested : and

(c) “ land-holder ” means a málguzář as defined in the <sup>2</sup>Central Provinces Land-revenue Act, 1881, and the zamíndár of any zamíndáři in a <sup>3</sup>Scheduled District, and includes a muáfídár, jagírdár, ubáridár

III of  
1.

<sup>1</sup> For Statement of Objects and Reasons see Gazette of India, 1899, Pt. V, p. 108, for Report of the Select Committee, see *ibid*, p. 121, and for Proceedings in Council, see *ibid*, Pt. VI, pp. 192 and 225.

<sup>2</sup> Act XVIII of 1881 has been repealed and re-enacted by the Central Provinces Land-revenue Act, 1917 (C. P. Act II of 1917), *infra*, but the definition of “ málguzář ” is not reproduced in the latter Act.

<sup>3</sup> A list of the Scheduled Districts of the Central Provinces will be found in the Appendix, *infra*

or other assignee of land-revenue, and any person not hereinbefore specified who is interested in land and belongs to a class of which the Local Government, with the previous sanction of the Governor General in Council, has declared <sup>1</sup> the members to be land-holders for the purposes of this Act.

Commissioner to be Court of Wards. Superintendence by Court of Wards of property of disqualified land-holder. Land-holders to be deemed disqualified in certain cases.

3. Subject to the provisions of section 9, the Commissioner shall be the Court of Wards for the limits of his division.

4. The Court of Wards may, with the previous sanction of the Local Government, assume the superintendence of the property of any land-holder owning land within the local limits of its jurisdiction who is disqualified to manage his property.

5. (1) The following persons shall, for the purposes of section 4, be deemed to be disqualified to manage their own property, namely :—

- (a) minors ;
- (b) persons adjudged by a competent Civil Court to be of unsound mind and incapable of managing their affairs ; and
- (c) persons declared by the Local Government to be incapable of managing their property owing to —
  - (i) any physical or mental defect or infirmity ;
  - (ii) their having been convicted of a non-bailable offence and being unfitted by vice or bad character ; or
  - (iii) their being females.

(2) No suit shall be brought in any Civil Court in respect of any declaration made by the Local Government under sub-section (1), clause (c).

Superintendence by Court of Wards on application of proprietor.

6. (1) Any land-holder may apply to the Local Government to have his property placed under the superintendence of the Court of Wards, and the Local Government may on such application, if it thinks it expedient in the public interests, order the Court of Wards to assume the superintendence of the property.

(2) An order made by the Local Government under sub-section (1) shall be sufficient to authorize the Court of Wards to assume the superintendence of the property referred to therein, and no suit shall be brought in any Civil Court in respect of any such order.

Temporary provisions for custody of heirs and protection of property in certain cases.

<sup>2</sup>7. (1) Whenever the Court of Wards receives information that any land-holder has died and has reason to believe that the heir of the land-holder is a person who is, or should be adjudged or declared to be, disqualified under section 5, the Court may—

- (a) take such steps and make such order for the temporary custody and protection of the property inherited as it thinks fit ; and,

<sup>1</sup> For declaration under s. 2(c), see Central Provinces Local Rules and Orders.

<sup>2</sup> For general rules under s. 7, see *ibid.*

(b) if the heir is a minor, direct that the person (if any) having the custody of the minor, shall produce him or cause him to be produced at such place and time and before such person as the Court may appoint, and make such order for the temporary custody and protection of the minor as it thinks fit :

Provided that, where the minor is a female and belongs to a class the females of which do not usually appear in public, her production shall be required only in accordance with the manners and customs of the country.

(2) Whenever the Court of Wards proceeds under this section, it shall forthwith report its action for the information of the Local Government.

8. Where the Court of Wards assumes the superintendence of the property of a minor or of a person who has been adjudged by a competent Civil Court to be of unsound mind and incapable of managing his affairs, it may, with the previous sanction of the Local Government, assume the superintendence of his person also :

Provided that nothing in this section shall authorize the Court of Wards to assume the superintendence of the person of a female who is married to a man of full age and is in his custody.

9. Where a land-holder owns land within two or more divisions, such one only of the Courts of Wards as the Local Government may determine in this behalf shall assume the superintendence of the property, or of the person and property, of the land-holder.

10. (1) Whenever the Court of Wards assumes the superintendence of the property of any person under this Act, the fact of such assumption, and the date on which it was sanctioned by the Local Government, shall be notified in the local official Gazette.

(2) On and with effect from the date of such sanction, the whole of the property, moveable and immoveable, of such person, whether the existence of any such property may be known to the said Court or not, shall be deemed to be under the superintendence of the Court of Wards.

(3) Any property which the Government ward may inherit subsequently to the date of such sanction, shall also be deemed to be under the superintendence of the Court of Wards.

(4) The Court of Wards may, in its discretion, assume, or refrain from assuming, the superintendence of any property which the ward may acquire, otherwise than by inheritance, subsequently to the date of such notification.

11. No suit shall be brought in any Civil Court to contest the authority of the Court of Wards in respect of the property, or of the person and property, of any person under this Act on the ground that such person was not, or is not a land-holder or a minor.

Superintendence by Court of Wards of person of disqualified land-holder.

Superintendence by Court of Wards where disqualified land-holder owns and in more than one division.

Assumption of superintendence to be notified and to extend to whole of Government ward's property.

Barring of suits to contest authority to assume superintendence.

Notices to claimants against Government ward.

12. (1) On the issue of a notification under section 10, the Court of Wards shall publish in the local official Gazette and in such other manner as the Local Government may, by general or special order, direct a notice<sup>1</sup>, in English and also in the vernacular, calling upon all persons having claims against the Government ward or his immoveable property to submit the same in writing to it within six months from the date of the publication of the notice aforesaid.

(2) Every such claim (other than a claim on the part of the Government) not submitted to the Court of Wards in compliance with the provisions of sub-section (1), shall, save in the case provided for by section 13, sub-section (2), clause (c), be deemed for all purposes and on all occasions, whether during the continuance of the management or afterwards, to have been duly discharged :

Provided that, if the Court of Wards is satisfied that the claimant was unable to comply with the provisions of sub-section (1), it may receive his claim at any time after the date of the expiry of the period aforesaid, but any claim so received shall, notwithstanding any law, contract, decree or award to the contrary, cease to carry interest from the date of the expiry of the period aforesaid.

Claimants to furnish full particulars and documents

13. (1) Every claimant submitting his claim in compliance with the provisions of section 12, sub-section (1), shall furnish, along with his written statement of claim, full particulars thereof, and shall, at the same time, produce all documents (including entries in books of account) on which he relies to support his claim, together with a true copy of every such document.

(2) The Court of Wards shall, after marking, for the purpose of identification, every original document so produced and verifying the correctness of the copy, retain the copy and return the original to the claimant.

(3) If any document, which is in the possession or under the control of the claimant, is not produced by him as required by sub-section (1), the document shall not be admissible in evidence against the Government ward, whether during the continuance of the management or afterwards, in any suit brought by the claimant or by any person claiming under him.

Stay of proceedings of Civil Courts.

14. If a Civil Court has directed any process of execution to issue against any immoveable property of a Government ward or the rents thereof or any crops standing thereon, the Court of Wards may at any time within one year after the issue of a notification under section 10, apply to the Civil Court to stay proceedings in the matter of such process, and the Civil Court may,

<sup>1</sup> For notices under s. 12 (1) see Central Provinces Local Rules and Orders.

on such terms regarding interest or compensation for delay as may appear to it to be just and reasonable, stay such proceedings accordingly.

15. (1) On receipt of all claims submitted in compliance with the provisions of sections 12 and 13, the Court of Wards shall proceed to investigate such claims and shall decide which of them are to be wholly or partly admitted or wholly or partly rejected, as the case may be, and shall communicate its decision in writing to each claimant concerned. Adjudication of claims.

(2) When the Court of Wards has admitted any claim under sub-section (1), it may make to the claimant a proposal in writing for the reduction of the claim, or of the rate of interest to be paid in future, or of both ; and if such proposal, or any modification of it, is accepted by the claimant and his acceptance is finally recorded and attested by the Court of Wards or by any Revenue-officer not being below the rank of an Assistant Commissioner whom the Local Government may, by general or special order, appoint<sup>1</sup> in this behalf, it shall be conclusively binding upon the claimant :

Provided that, if when the superintendence of the property by the Court of Wards is relinquished or otherwise terminates, any portion of the claim reduced as aforesaid is still unsatisfied, the claimant shall be entitled to recover a sum bearing the same proportion to the original claim admitted under sub-section (1) as the unsatisfied portion bears to the reduced claims.

(3) Subject to the provisions of sub-section (2), nothing in this section shall be construed to bar the institution of a suit in a Civil Court for the recovery of a claim against a Government ward or his property which has been submitted to and received by the Court of Wards :

Provided that no decision of the Court of Wards under this section shall be proved in any such suit as against the defendant.

16. (1) When all claims have been investigated under section 15, the Court of Wards shall submit to the Local Government a schedule of the debts and liabilities of the Government ward, and the Local Government may, when the estate appears to be involved beyond all hope of extrication or for any other sufficient reason, by an order published in the local official Gazette, direct that, on a date to be fixed by the order, the superintendence of the property and person of the ward shall be relinquished by the Court of Wards. Report to Chief Commissioner.

(2) On the date so fixed—

(a) the superintendence shall terminate ;

(b) the owner of the property under superintendence shall be restored to the possession thereof, subject to any contracts entered into by the Courts of Wards for the preservation or benefit of such property ;

<sup>1</sup> For officer appointed for the purposes of s. 15 (2), see Central Provinces Local Rules and Orders.

(c) the claims referred to in section 12, sub-section (2), shall revive.

(3) In calculating the periods of limitation applicable to suits to recover and enforce debts and liabilities revived under this section, the time during which such superintendence has continued shall be excluded.

Appointment,  
etc., of  
managers by  
Court of  
Wards.  
Delegation  
of powers  
by Court of  
Wards.

17. The Court of Wards may appoint a manager of the property of any Government ward under its superintendence.

18. (1) With the general or special sanction of the Local Government, the Court of Wards may, from time to time, <sup>1</sup> delegate all or any of its powers to the Deputy Commissioner of any district in which any part of the property of a Government ward is situated, or to any other person whom it may appoint in this behalf, and may, at any time, with the like sanction, revoke such delegation.

(2) Subject to any general or special orders of the Local Government, the Court of Wards may exercise all or any powers conferred on it by this Act through the Deputy Commissioner of any district in which any part of the property of a Government ward is situated, or through any other person whom it may appoint in this behalf, and, subject to the like orders, any such Deputy Commissioner may exercise all or any powers delegated to him under this Act through any Revenue-officer subordinate to him.

Liabilities,  
etc., of  
managers  
and other  
servants of  
Court of  
Wards.

19. (1) Every manager appointed by the Court of Wards shall—

- (a) give such security as the Court thinks fit duly to account for what he receives in respect of the rents and profits of the property under his management ;
- (b) be entitled to such allowance as the Court thinks fit for his care and pains in the execution of his duties ; and
- (c) be responsible for any loss occasioned to the property under his management by his wilful default or gross negligence.

(2) Every manager or other servant of the Court of Wards shall be deemed a " public servant " within the meaning of sections 161, 162, 163, 164 and 165 of the <sup>2</sup> Indian Penal Code ; and in the definition of " legal remuneration " contained in the said section 161, the word " Government " shall for the purposes of this sub-section, be deemed to include the Court of Wards. XLV of 18

Power for  
Court of  
Wards to  
appoint  
guardians  
of certain  
Government  
wards.

20. The Court of Wards may appoint guardians for the care of the persons of Government wards whose persons are, for the time being, under its superintendence.

<sup>1</sup> For delegation of powers under s. 18, see Central Provinces Local Rules and Orders.

<sup>2</sup> General Acts, Vol. I.



21. Subject to the provisions of this Act and of any rules thereunder, the Court of Wards—

General powers of Court of Wards.

(a) may, of itself or through the manager (if any) appointed by it under this Act, do all such things requisite for the proper care and management of any property, of which it assumes the superintendence under this Act, as the owner of the property, if it were not under the superintendence of the Court of Wards, might do for its care and management ; and

(b) may, of itself or through the guardian (if any) appointed by it under this Act, do, in respect of the person of any Government ward whose person is, for the time being, under its superintendence, all such things as may lawfully be done by a guardian.

22. The Court of Wards may pass such orders as it thinks fit in respect of the custody and residence of any Government ward whose person is, for the time being, under its superintendence, and, when he is a minor, in respect of his education.

Custody, education and residence of certain Government wards.

23. The Court of Wards may, from time to time, determine what sums shall be allowed in respect of the expenses of any Government ward and of his family and dependants.

Allowance for Government ward and his family.

24. The Court of Wards, or the manager (if any) appointed by it under this Act, shall manage the property of every Government ward under its superintendence or under his management diligently and faithfully for the benefit of the Government ward, and shall in every respect act to the best of its or his judgment for the Government ward's interest as if the property were its or his own.

Duties of Court of Wards or manager.

25. The Court of Wards may let the whole or any part of the property of any Government ward under its superintendence, and may, with the previous sanction of the Local Government, mortgage, sell or exchange the whole or any part of such property and may do all such other acts as it may judge to be best for the benefit of the property and the advantage of the Government ward.

Powers of Court of Wards as to property of Government wards.

26. No suit relating to the person or property of any Government ward shall be brought in any Civil Court until the expiration of two months after notice in writing, stating the name and place of abode of the intending plaintiff, the cause of action and the relief claimed, has been delivered to, or left at the office of, the Court of Wards ; and the plaint shall contain a statement that such notice has been so delivered or left :

Notice of suit.

Provided that notice under this section shall not be required in the case of any suit the period of limitation for which will expire within three months from the date of a notification issued under section 10, sub-section (1).

Manager or  
Court of  
Wards to be  
next friend or  
guardian in  
suit by or  
against  
Government  
wards.  
Payment  
of costs.

27. In every suit brought by or against a Government ward, the manager of the ward's property or, if there is no manager, the Court of Wards having the superintendence of the ward's property shall be named as the next friend or guardian for the suit, as the case may be.

28. If, in any suit brought by or against a Government ward, any Civil Court decrees any costs against the Government ward's next friend or guardian for the suit, the Court of Wards shall cause the costs to be paid out of any property of the Government ward which may, for the time being, be in its hand.

Processes  
against  
Government  
ward to be  
served on  
next friend  
or guardian.  
Authority of  
Court of  
Wards  
required in  
case of suits  
brought on  
behalf of  
Government  
wards.

29. Every process which may be issued out of any Civil or Revenue Court against any Government ward shall be served on the Government ward's next friend or guardian for the suit.

30. No suit shall be brought, and no appeal in any suit shall be preferred, on behalf of any Government ward unless it is authorized by an order in writing of the Court of Wards :

Provided as follows :—

(1) a manager may authorize a plaint to be filed in order to prevent a suit from being barred by the law of limitation, but the suit shall not afterwards be proceeded with except under the sanction of the Court of Wards ;

(2) a suit for arrears of rent may be brought on behalf of a Government ward, if authorized by an order of the manager of the property on which the rent is due.

Disabilities  
of a Govern-  
ment ward.

31. (1) A Government ward shall be incompetent to transfer or create any charge on, or interest in, his property or any part thereof (except such interest as may be created by a will made in accordance with section 32), or to enter into any contract which may involve him in pecuniary liability <sup>1</sup>[nor shall his property be liable under section 68 of the <sup>2</sup>Indian Contract Act, 1X of 18' 1872] ; and no suit shall be brought in any Civil Court whereby to charge any person upon any promise made after he has ceased to be a Government ward to pay any debt contracted <sup>1</sup>[or discharge any liability arising under section 68 of the <sup>2</sup>Indian Contract Act, 1872] during the period when he was a Govern- 1X of 18' ment ward, or upon any ratification made after he has ceased to be a Govern- ment ward of any promise or contract made during the period aforesaid, whether there is or is not any new consideration for such promise or ratification.

<sup>1</sup>[Nothing in this section shall preclude the Court of Wards from satisfying, in whole or in part as it may deem fit, any claim under section 68 of the <sup>2</sup>Indian Contract Act, 1872.]

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<sup>1</sup> These words in square brackets in s. 31 were inserted by the Central Provinces Court of Wards (Amendment) Act, 1915 (C. P. Act I of 1915), *infra*, p. 333.

<sup>2</sup> General Acts, Vol. II.

(2) Nothing in this section shall be deemed to affect the capacity of a Government ward to enter into a contract of marriage :

Provided that a Government ward shall not incur, in connection with such a contract, any pecuniary liability, except such as, having regard to the personal law to which he is subject and to his rank and circumstances, the Court of Wards may, in writing, declare to be reasonable.

32. No adoption by a Government ward, and no written or verbal permission to adopt given by a Government ward, or will made by Government ward, shall be valid without the consent of the Local Government obtained, either previously or subsequently to the adoption or to the giving of the permission, or the making of the will, on application made to it through the Court of Wards.

Consent of Local Government necessary to adoptions or wills made by Government wards.

33. Whenever, on the death of any Government ward, the succession to his property or any part thereof is disputed, the Court of Wards may, with the previous sanction of the Local Government, either direct that the property or the part thereof be made over to any person claiming the property, or retain the superintendence of the property until one of the claimants has established his claim to the same in a competent Civil Court, or institute a suit of interpleader against all the claimants.

Procedure when succession to Government ward's property is disputed.

34. (1) The Court of Wards may, with the sanction of the Local Government, at any time withdraw its superintendence from the person or property, or both, of a Government ward, and shall withdraw its superintendence as soon as,—

Withdrawal of superintendence of Court of Wards.

- (a) in the case of a person disqualified under clause (a) of section 5, sub-section (1), he attains his majority ;
- (b) in the case of a person disqualified under clause (b) of the same, he ceases to be of unsound mind and incapable of managing his affairs ;
- (c) in the case of a person disqualified under sub-clause (i) of clause (c) of the same, his physical or mental defect or infirmity is removed or ceases :

Provided as follows :—

- (i) whenever a Government ward dies or ceases to be disqualified and his property is still encumbered with debts and liabilities, the Court of Wards may, with the previous sanction of the Local Government, either release such property or retain it under its superintendence until such debts and liabilities have been discharged ; and,

- (ii) if one or more of the proprietors of a property remain disqualified, although another or others may have ceased to be disqualified, the Court of Wards may, with the previous sanction of the Local Government, retain the whole of the property under its superintendence, paying any proprietor who has ceased to be disqualified, the surplus income accruing from his share of the estate.

(2) Where any question arises as to whether the superintendence of the Court of Wards should be withdrawn from any person or property, or both, under clause (a), or from any property under clause (c), of sub-section (1), the decision of the Local Government thereon shall be final, and no suit shall be brought in any Civil Court in respect of such decision.

Appointment  
of guardian  
in certain  
cases.

35. (1) Where in exercise of the power conferred by section 34, the Court of Wards decides to withdraw its superintendence from the person and property of any minor, it shall, before such withdrawal, by an order in writing, appoint some person to be guardian of the person or property, or both, of the minor, and such appointment shall take effect from the date of such release.

(2) In appointing a guardian under this section, the Court of Wards shall be guided by the provisions of the <sup>1</sup>Guardians and Wards Act, 1890; and every guardian so appointed shall have, and be subject to, the same rights, duties and liabilities as if he had been appointed under that Act. VIII of 1

Withdrawal  
to be notified  
in Gazette.

36. Where the Court of Wards withdraws its superintendence from any person or property under this Act, the fact of such withdrawal shall be notified in the local official Gazette.

Appeals.

37. An appeal shall lie from every order passed under this Act, whether original or on appeal,—

- (a) if the order is that of a Commissioner, to the Local Government ;
- (b) if the order is that of a Deputy Commissioner, to the Commissioner ;
- (c) in all other cases, to the Deputy Commissioner :

Provided that in no case shall a third appeal lie.

Control of  
Local Gov-  
ernment.

38. All orders or proceedings under this Act shall be subject to the supervision and control of the Local Government ; and the Local Government may, if it thinks fit, revise, modify or reverse any such order or proceeding, whether an appeal is presented against any such order or proceeding or not.

Exercise of  
discretion  
not to be  
questioned in  
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39. No suit shall be brought in any Civil Court in respect of the exercise of any discretion conferred by this Act.

Power for  
Local  
Government to  
make rules.

40. (1) The Local Government may make rules<sup>2</sup> to carry out the purposes and objects of this Act.

<sup>1</sup> General Acts, Vol. IV.

<sup>2</sup> For rules under s. 40 (1), see Central Provinces Local Rules and Orders, and Central Provinces Gazette, 1917, Part I, p. 26.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

- (a) prescribe the matters to which regard should be had in appointing or removing guardians and managers, and in fixing their remuneration ;
- (b) regulate the amount of security to be given by managers ;
- (c) prescribe the cases in which proposals or arrangements connected with the administration of the properties of Government wards shall be reported for the sanction of the Local Government ;
- (d) prescribe the accounts and other returns which, and the period and form at and in which, they shall be rendered to the Court of Wards and by the Court of Wards to the Local Government ;
- (e) regulate the custody of securities and title-deeds belonging to the estate or property of a Government ward ;
- (f) regulate the procedure in inquiries by, and in appeals from orders of, the Court of Wards under this Act, and fix the periods of limitation which shall apply to such appeals ;
- (g) confer upon the Court of Wards for the purposes of this Act any of the powers exercised by a Civil Court in the trial of suits ;
- (h) prescribe the mode in which powers delegated to managers are to be notified for the information of persons concerned ; and
- (i) generally prescribe the manner in which the powers and duties of the Court of Wards under this Act shall be exercised and performed.

(3) All rules made under this section shall be published in the local official Gazette, and shall on such publication have effect as if enacted by this Act.

41. The enactments mentioned in the schedule are repealed to the extent specified in the fourth column thereof.

#### THE SCHEDULE.

Year.	No.	Short title.	Extent of repeal.
1	2	3	4
1885	XVII	The Central Provinces Government Wards Act, 1885.	The whole.
1890	VIII	The Guardians and Wards Act, 1890.	So much of section 2 and the schedule as relates to Act XVII of 1885.
1891	XII	The Repealing and Amending Act, 1891.	So much as relates to Act XVII of 1885.



THE ASSAM LABOUR AND EMIGRATION ACT, 1901  
(VI OF 1901).

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THE SECOND SCHEDULE. Form of Certificate of Emigration for the purpose of the Act.

# ACT No. VI of 1901.

## [THE ASSAM LABOUR AND EMIGRATION ACT, 1901.]

An Act to consolidate and amend the law relating to Emigration to the Labour-districts of Assam.

WHEREAS it is expedient to consolidate and amend the law relating to emigration to the labour-districts of Assam; It is hereby enacted as follows :—

### CHAPTER I.

#### PRELIMINARY.

Short title,  
extent and  
commence-  
ment.

1. (1) This Act may be called the Assam Labour and Emigration Act, 1901.

(2) It extends—

(a) to the Province of Bengal (including the Santhal Parganah), the North-Western Provinces, Oudh and Assam, the Central Provinces and the District of Ganjam in the Province of Madras; and

(b) to such other parts of British India as the Local Government may, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, direct.

(3) It shall come into force—

(i) in the territories mentioned in clause (a) of sub-section (2), at once; and,

(ii) in any territories to which it may be extended by a notification under clause (b) of the said sub-section, on such day as may be specified in that behalf in the notification.

Definitions.

2. (1) In this Act, unless there is anything repugnant in the subject or context,—

(a) “agent” means a garden-sardar or other person engaging or assisting any native of India to emigrate under Chapter V :

<sup>1</sup> This Act is an amalgamation of the provisions of two Bills separately introduced in Council, *see* the Report of the Select Committee referred to below. These Bills were the “Assam Labour and Emigration Bill” and the “Assam Emigrants Health Bill.” For Statements of Objects and Reasons, *see* Gazette of India, 1899, Pt. V, pp. 165 and 175, respectively : for Report of the Select Committee on both Bills which led to their amalgamation, *see* Gazette of India, 1901, Pt. V, p. 27 : for Proceedings in Council, *see* *ibid.*, 1899, Pt. VI, pp. 225 and 234, relating to both Bills : and for Proceedings in Council after their amalgamation, *see* *ibid.*, 1901, Pt. VI, pp. 15 and 32.

(b) "Assistant Inspector" means an Assistant Inspector of Labourers appointed under this Act :

1                    \*                    \*                    \*                    \*                    \*                    \*

<sup>2</sup>[ (c) "Board" means the Assam Labour Board constituted under Chapter VI-A :]

(d) "dependant" includes any woman (not being a labourer), any child and any aged or incapacitated relative or friend accompanying any labourer with the consent of a <sup>3</sup> \* \* \* local agent or garden-sardar, or accompanying any emigrant with the consent of an agent :

(e) "emigrate" denotes the departure of any native of India (not being a native of a labour-district) of the age of sixteen years or upwards from any part of the territories in which this Act may for the time being be in force, for the purpose of labouring for hire in a labour-district otherwise than as a domestic servant :

<sup>4</sup>[*Explanation*.—If any such native of India having proceeded from a Native State into such territories, departs therefrom for the purpose aforesaid, he shall be deemed to emigrate within the meaning of this definition.]

(f) "employer" means the chief person for the time being in charge of any estate upon which labourers or more than fifty other persons are employed :

(g) "estate" means the land upon which any labourers or more than fifty other persons have been engaged to labour :

(h) "garden-sardar" means a person employed on an estate and deputed by his employer to engage labourers :

(i) "Inspector" means an Inspector of Labourers appointed under this Act :

(j) "labour-contract" means a contract, penally enforceable under this Act, to labour for hire in a labour-district otherwise than as a domestic servant :

<sup>1</sup> Clause (c) was repealed by s. 7 (1) and Sch. of the Assam Labour and Emigration (Amendment) Act, 1915 (VIII of 1915), *infra*, p. 320.

<sup>2</sup> Clause (cc) was inserted by s. 2 (a) of *ibid.*

<sup>3</sup> The words "contractor, sub-contractor, recruiter" in clause (d) were repealed by s. 7 (1) and Sch. of *ibid.*

<sup>4</sup> The *Explanation* to clause (e) was inserted by s. 2 (b) of *ibid.*

- (k) "labour-district" means any of the districts of Lakhimpur, Sibsagar, Nowgong, Darrang, Kamrup, Goalpara, Cachar and Sylhet in the Province of Assam :
- (l) "labourer" means any person bound by a labour-contract, and includes any person registered as such under <sup>1</sup>\* \* \* section 69 :
- (m) "local agent" means a local agent licensed under this Act :
- (n) "Magistrate" means a District Magistrate, Sub-divisional Magistrate or other person appointed by the Local Government to perform the functions of a Magistrate under this Act :
- <sup>2</sup>[(nn) "native district," in case of a person who, having proceeded from a Native State into territories in which this Act is in force, emigrates therefrom, includes such Native State:]
- <sup>3</sup>\* \* \* \* \*
- (p) "recruiting district" means a district in which this Act is for the time being in force, other than a labour-district :
- (q) "Registering-officer" means a Registering-officer appointed under this Act :
- (r) "sign" and "signature" include, in the case of persons unable to write, finger-impressions :
- <sup>3</sup>\* \* \* \* \*
- (t) "Superintendent" means a Superintendent of Emigration appointed under this Act : <sup>4</sup>[and]
- <sup>4</sup>[(u) "Supervisor" means a Supervisor appointed under this Act.]

(2) All words defined in the 'Indian Contract Act, 1872, and used in this IX of 1871 Act shall be deemed to have the meanings respectively assigned to them by that Act.

Local Government may prohibit recruitment, etc., for emigration to any labour-district or part thereof either absolutely or otherwise than under certain provisions of Act.

3. The Local Government may, with the previous sanction of the Governor General in Council, by notification<sup>6</sup> in the local official Gazette prohibit all persons from recruiting, engaging, inducing or assisting any native of India, or any specified class of natives of India, to emigrate from the whole or any specified part of the Province to any labour-district or any specified portion of any labour-district, either absolutely or otherwise than in accordance with such of the provisions of this Act as may be specified in the notification :

Provided that a notification under this section shall not take effect until the expiry of six months from the date of its publication in the Gazette

<sup>1</sup> The words and figures "section 34 or " in clause (k) were repealed by s. 7 and Sch. of the Assam Labour and Emigration (Amendment) Act, 1915 (VIII of 1915), *infra*, p. 321.

<sup>2</sup> Clause (nn) was inserted by s. 2 (c) of *ibid.*

<sup>3</sup> Clauses (o) and (s) were repealed by s. 7 and Sch. of *ibid.*

<sup>4</sup> The word "and" and clause (u) were inserted by s. 2 (d) of *ibid.*

<sup>5</sup> General Acts, Vol. II.

<sup>6</sup> For notification under s. 3, see C. P. Local Rules and Orders.



unless for any special reason the Local Government thinks it necessary to direct that the notification is to take effect at an earlier date.

4. (1) The Local Government may appoint<sup>1</sup> so many persons as it thinks necessary to be Superintendents of Emigration, Registering-officers, Embarkation Agents, Debarkation Agents, Inspectors of Labourers, Assistant Inspectors of Labourers and Medical Inspectors, under this Act respectively, and, with respect to any such officer, may, subject to the control of the Governor General in Council, declare the local area situate in the Province within which he shall exercise the powers and perform the duties conferred and imposed upon him by this Act or any rule thereunder.

(2) Every person so appointed shall be deemed to be a public servant<sup>2</sup> of 1860, within the meaning of the <sup>2</sup>Indian Penal Code.

## CHAPTER II.

### LABOUR-CONTRACTS GENERALLY.

5. (1) Every labour-contract shall be in writing in the form set forth in the first schedule, and shall be executed as hereinafter provided in duplicate on substantial paper.

(2) Every labour-contract shall specify—

- (a) the names of the labourer and his employer ;
- (b) the term for which the labourer is to labour ;
- (c) the monthly wages in money of the labourer and the price at which rice is to be supplied to him ;
- (d) the labour-district in which, and, if the labourer so request, the estate on which, the labourer is to labour.

(3) No labour-contract shall be made for a term exceeding four years or if the contract is entered into under the provisions of section 118, for a term exceeding one year, commencing from the date of its execution.

(4) No labour-contract shall stipulate for a less rate of monthly wages than—

for the first year, five rupees in the case of a man and four rupees in the case of a woman :

for the second and third years, five rupees eight annas in the case of a man and four rupees eight annas in the case of a woman : and

<sup>1</sup> For appointment made under ss. 4 (1) and 64, see C. P. Local Rules and Orders.

<sup>2</sup> General Acts, Vol. I.

for the fourth year, six rupees in the case of a man and five rupees in the case of a woman :

Provided that the payment of wages under a labour-contract at the stipulated rates shall during the first six months after the arrival of the labourer in the labour-district where he is first employed be contingent on the completion of half the daily task regulated in accordance with the provisions of this Act, unless an Inspector has certified that the labourer is physically fit to perform the whole of such task :

Provided also that in all other cases the payment of wages at the stipulated rate shall be contingent on the completion of such daily task :

Provided further that any labour-contract made before the first day of April, 1903, may stipulate for a rate of monthly wages of not less than five rupees in the case of a man and four rupees in the case of a woman for the second and third years of the term of such contract.

Contracts not enforceable as labour-contracts unless made in accordance with section 5.

In absence of specific obligation, under-ground labour not obligatory.

Where contract does not specify estate, labourer to be deemed to have contracted to labour on any estate in charge of employer and situate in labour-district. Persons who may enter into labour-contracts.

Power of Local Government to cancel contract in case of wrongful recruitment.

6. No contract made otherwise than in accordance with the provisions of section 5 shall be enforceable under this Act as a labour-contract against the labourer entering into it.

7. Unless his labour-contract contains a specific obligation to that effect no labourer shall be bound by it to undertake any work involving underground labour in mines.

8. Unless his labour-contract specifies the particular estate on which he is to labour, a labourer shall be deemed to have contracted to labour on any estate in charge of the employer for whom he has contracted to labour, and situated in the labour-district specified in the contract :

Provided that no labourer shall, without his consent, be separated from his dependants (if any), or from any other labourer, being his or her wife, husband, son or daughter.

9. Notwithstanding anything to the contrary in the <sup>1</sup>Indian Contract Act, IX of 1872, any person of the age of sixteen years or upwards may enter into a labour-contract :

Provided that no woman shall be capable of binding herself by a labour-contract if her husband or lawful guardian (if any) objects.

10. (1) Where the Local Government, after such enquiry as it thinks sufficient, is of opinion that any labourer was recruited or conveyed to a labour-district, or compelled or induced to enter into a labour-contract, by any coercion, undue influence, fraud or misrepresentation, or that any such irregularity has occurred in connection with his recruitment or the exe-

<sup>1</sup> General Acts, Vol. II.

cution of his contract as makes it just to rescind his contract, the Local Government may by order in writing direct the labour-contract of the labourer to be cancelled.

(2) On receipt of an order made under sub-section (1), the Superintendent, Inspector or Magistrate shall cancel the labour-contract referred to in the order, and shall thereupon make endorsement that it has been so cancelled on the labourer's copy of the labour-contract, or, if that copy is not forthcoming, shall give to the labourer a certificate to the like effect.

11. Where the labour-contract of a labourer is or has been cancelled under section 10, the Local Government may, in its discretion and on the application of the labourer concerned, cancel the labour-contract of any labourer, being the wife, husband, father, mother, son or daughter of the labourer whose labour-contract is or has been cancelled, who may have entered into a labour-contract at the same place with the same employer or, in the case of labour-contract cancelled in the labour-districts, may be employed on any estate belonging to the same owner or under charge of the same employer.

12. (1) Subject to any orders which the Local Government may make in this behalf, the Superintendent, Inspector or Magistrate may detain and send back to his native district any labourer, together with his dependants (if any), whose labour-contract has been cancelled under section 10 or section 11, and may recover the whole or any part of the expenses incurred during such detention or in so sending him back as follows, namely :—

Repatriation  
of labourers  
whose con-  
tracts are  
cancelled.

$$1'(\ell) \quad * \quad * \quad * \quad * \quad *$$

(b) in the case of a labourer in a recruiting district, if the labourer has been recruited under Chapter IV, from the employer by whom the certificate of the garden-sardar concerned was granted or from the local agent of the employer ; and,

(c) in the case of a labourer in a labour-district, from the employer on whose estate the labourer is under contract to labour, \* \* \*

(3)      \*                      \*                      \*                      \*                      \*

13. (1) Where a labourer is sent back to his native district under section 12, the Superintendent, Inspector or Magistrate may provide an escort or make such other arrangements as he may think necessary for ensuring that the labourer is actually conveyed to his native district.

<sup>1</sup> Clause (a) of s. 12 was repealed by s. 7 and Sch. of the Assam Labour and Emigration (Amendment) Act, 1915 (VIII of 1915), *infra*, p. 321.

<sup>2</sup> In clause (c) of s. 12 (1) the words from "or if the labourer" to the end of the clause were repealed by s. 7 (1) and Sch. of the Asian Labour and Emigration (Amendment) Act, 1915 (VIII of 1915), *infra*, p. 321.

<sup>1</sup> Sub-sections (2) and (3) of s. 12 were repealed by *ibid.*

(2) Any expenditure incurred in providing such escort or making such arrangements as aforesaid may be recovered as part of the amount expended in sending the labourer back to his native district.

[Chapter III. (Sections 14 to 55)—Recruitment by Contractors, Agents, Traders and Recruiters.] Repealed by Act, VIII of 1915, S. 7 and Schedule.

## CHAPTER IV.

### RECRUITMENT BY GARDEN-SARDARS AND LOCAL AGENTS.

#### *Garden-sardars.*

Employer may grant certificate to garden-sardar.

56. (1) An employer may grant to any garden-sardar a certificate authorizing him, in such local area within the limits of a single recruiting district as may be specified in the certificate, to enter into labour-contracts with persons desirous of becoming labourers upon any estate of which the employer is in charge, and may cancel such certificate at any time.

(2) Where any labourer bound by a labour-contract is granted a certificate under sub-section (1), his employment under the certificate shall be deemed to be employment under his labour-contract.

Form and particulars to be contained in such certificate.

57. (1) Every certificate granted to a garden-sardar under section 56, sub-section (1), shall be in such form and shall contain such particulars as the Chief Commissioner of Assam may prescribe in this behalf.

(2) Any employer granting a certificate to a garden-sardar under section 56, sub-section (1), may, before the certificate is accepted and signed as hereinafter provided, specify therein the name of the local agent (if any), to whom the garden-sardar is to report himself for orders, the time within which he is to return to his employer, and such other instructions for his guidance as he may think fit.

Certificate to be accepted and signed in presence of Inspector or Magistrate. Inspector's or Magistrate's countersignature of certificate.

58. Every certificate granted to a garden-sardar under section 56, sub-section (1), shall be accepted and signed by the garden-sardar in the presence of the Inspector or of a Magistrate having jurisdiction over the place where the employer granting the certificate resides.

59. The Inspector or Magistrate shall inquire into the facts stated in the certificate, and, upon being satisfied of the truth of the facts so stated, shall, unless it appears to him that the person so accepting and signing the certificate is not employed on an estate of which the person granting the certificate is in charge or is, by character or from any other cause, unfitted to be a garden-sardar, countersign and date the certificate.

Provision for grant of fresh certificate.

60. (1) On the application of the employer by whom any certificate so countersigned has been granted to a garden-sardar, the Inspector or Magistrate may, without requiring the appearance of the garden-sardar or making the inquiry prescribed by section 59, countersign a fresh certificate to be

granted by the employer to the garden-sardar in renewal of any existing certificate.

(2) Every fresh certificate granted under sub-section (1) shall be forwarded by the Inspector or Magistrate countersigning it to the District Magistrate of the district in which the garden-sardar to whom it is granted is employed; and the garden-sardar shall, on receiving notice from such District Magistrate as aforesaid, appear before him or any Magistrate specified in the notice and accept and sign the fresh certificate in his presence.

61. No certificate granted to a garden-sardar under this Chapter shall come into force unless and until it has been accepted and signed by the garden-sardar and countersigned by the Inspector or Magistrate having jurisdiction over the place where the employer granting the certificate resides, and also by the District Magistrate of the district in which the garden-sardar is authorised by the certificate to enter into labour-contracts, and no certificate so granted shall continue in force for a longer period than one year from the date of its countersignature by the said Inspector or Magistrate.

Certificate when to come into force, and duration thereof.

62. (1) Every garden-sardar shall provide sufficient and proper accommodation in a suitable place for such labourers, or persons intending to become labourers, as may be collected by him pending their removal to a labour-district.

Accommodation to be provided by garden-sardar.

(2) The District or Sub-divisional Magistrate shall visit and inspect the accommodation so provided; and every garden-sardar or other person in charge of a place in which accommodation is so provided shall afford to such Magistrate every facility for visiting and inspecting it.

(3) The District or Sub-divisional Magistrate may delegate the duty imposed on him by sub-section (2) to a Subordinate Magistrate or to an officer of police above the rank of sub-inspector.

(4) In every such place as aforesaid the garden-sardar providing the accommodation shall make such sanitary arrangements as the Local Government may prescribe.

63. (1) Where a garden-sardar commits a breach of any of the provisions of this Act or the rules thereunder, the Inspector or Magistrate who countersigned his certificate, or the District Magistrate who countersigned the certificate under section 61, or the Superintendent within whose jurisdiction the garden-sardar is employed, may cancel the certificate.

Cancellation of certificate in certain cases.

(2) Whenever one of the officers aforesaid cancels a certificate, he shall give notice of the fact to the other officers mentioned in sub-section (1) and to the employer of the garden-sardar; and, whenever such a certificate is cancelled by the employer, notice of the fact shall be given by him to the officers aforesaid.

(3) When the certificate of a garden-sardar is cancelled under this section, any labourers or other persons of whom he is in charge may be forwarded to their destination under the care of any person appointed by the employer for that purpose and approved by the Superintendent.

*Local Agents.*

Licensing  
and duties  
of local  
agents.

[64.<sup>1</sup> (1) The Local Government may authorize any Superintendent to grant licenses to suitable persons to be local agents, for the purpose of representing employers within a specified area and for a specified period, in all matters connected with the supervision of garden-sardars under this Act.

(2) Any employer, or, on behalf of an employer, any association or firm duly authorized by general or special order of the Governor General in Council for the purpose of this clause, may apply for a license as aforesaid, to be granted to a specified person.

(3) Every such application shall be made to the Board and the Board shall forward it with its recommendation to the Superintendent, who may thereupon, if he thinks fit, grant a license to such person.]

<sup>2</sup>(4) A local agent shall furnish such information and make such returns as the Local Government may, by rule, prescribe.

65. [*Selecting agent.*] *Repealed by Act VIII of 1915, Sec.*

Prosecution  
of garden-  
sardars by  
local agents.

66. Where any garden-sardar to whom a certificate has been granted under this Chapter by an employer commits any offence punishable under this Act, any local agent of the employer may prosecute the garden-sardar for that offence.

Cancellation  
of licenses of  
local agents.

67. (1) The District Magistrate of any district within which a local agent acts as such may, by order in writing, cancel the license of the local agent if <sup>3</sup>[his employer or the association or firm which has applied in respect of such local agent under section 64, sub-section (2)], so requires,<sup>4</sup> [or if the District Magistrate is satisfied that the conduct of the Local Agent has been such as to render him unsuitable to hold a license.]

(2) A local agent may within three months next after the date of any order of a District Magistrate cancelling his license under sub-section (1) appeal against the order to the Local Government, and the decision of the Local Government thereon shall be final.

<sup>1</sup> These sub-sections were substituted for sub-section (1) of s. 64 by s. 3 of the Assam Labour and Emigration (Amendment) Act, 1915 (VIII of 1915), *infra*, p. 320. For appointments of Superintendents, see C. P. Local Rules and Orders.

<sup>2</sup> Sub-section (2) of s. 64 was renumbered (4) by s. 3 of Act VIII of 1915, *infra*, p. 320.

<sup>3</sup> These words in s. 67 (1) were substituted for the words "the employer" by s. 4 of *ibid.*

<sup>4</sup> These words were substituted for the words from "or if" to the end of the sub-section by s. 4 of *ibid.*

*Procedure to be followed by Garden-sardars.*

68. Every garden-sardar who desires to engage any person as a labourer shall appear with the person together with any others about to proceed to a labour-district as his dependants, before the Registering-officer having jurisdiction within the local area specified in the certificate of the garden-sardar or before such other Registering-officer as the Local Government may appoint for that local area. Garden-sardar and labourer to appear before Registering-officer for registration.

69. (1) The Registering-officer shall thereupon inspect the certificate of the garden-sardar, and, if he finds that the certificate is in force, shall examine, with reference to the intended labour-contract, the person brought before him under section 68 whom it is desired to engage as a labourer, and explain the intended labour-contract to him. Examination and registration of persons engaged by garden-sardar.

(2) Where it appears that the person so brought before the Registering-officer is competent to enter into the intended labour-contract and understands the nature of the same as regards the locality, period and nature of the service, and the rate of wages and the price at which rice is to be supplied to him, that the terms thereof are in accordance with law, that he has not been induced to agree to enter therein by any coercion, undue influence, fraud, misrepresentation or mistake, and that he is willing to fulfil the same, the Registering-officer shall register, in a book to be kept for the purpose, such particulars regarding him and his dependants (if any), as the Local Government may, by rule, prescribe; and the labourer and his dependants (if any), shall thereupon be deemed to be registered under this Act.

70. (1) Where it appears to the Registering-officer that any person brought before him under section 68 is not in a fit state of health to undertake the journey to the labour-district to which he intends to proceed, or, in the case of a labourer, that he is incapacitated, by reason of any obvious bodily defect or infirmity, for labour in the labour-districts, the Registering-officer may, before registering him under section 69, sub-section (2), if himself a medical man, medically examine him, or, if not himself a medical man, send him to a medical man for medical examination. Medical examination.

(2) If upon medical examination any person so brought before a Registering-officer is declared unfit to undertake the journey to the labour-district or, in the case of a labourer, incapacitated, by reason of any obvious bodily defect or infirmity, for labour in the labour-districts, the Registering-officer may refuse to register him.

71. For every person brought before a Registering-officer under section 68 for the purpose of being registered as a labourer, the garden-sardar who appears with him shall pay to the Registering-officer such fee, not exceeding one rupee, as the Local Government may direct. Fee to be paid for every labourer produced for registration.

Labour-con-  
tract to be  
executed.

**72.** (1) Where a person has been registered under section 69, sub-section (2), he shall, within fifteen days after the date on which he was so registered, execute a labour-contract with the employer with whom he intends to contract.

(2) The labour-contract shall be signed in the presence of the Registering-officer by the person so registered and, on behalf of the employer, by the garden-sardar who appears with him before the Registering-officer. The Registering-officer shall satisfy himself that the labour-contract is in accordance with any instructions specified in the certificate of the garden-sardar and, if he so satisfied, shall, before the labourer signs the labour-contract, personally explain it to him and, after it has been executed as aforesaid, attest it, and certify at the foot thereof that he has personally explained it to the labourer.

(3) An abstract of every labour-contract executed under this section shall be entered in a register to be kept for the purpose by the Registering-officer, and a copy thereof shall then be given to the labourer and a copy to the garden-sardar or local agent.

(4) Where any garden-sardar, without reasonable cause, refuses or neglects to execute a labour-contract with a labourer as required by sub-section (2), within fifteen days after the date on which the labourer was registered under section 69, sub-section (2), the Registering-officer may order the garden-sardar to pay to the labourer such reasonable compensation, not exceeding twenty rupees, as the Registering-officer may think fit.

Procedure  
when em-  
ployer re-  
quires medi-  
cal examina-  
tion previous  
to registra-  
tion.

**73.** Where the employer of a garden-sardar has, in the instructions specified in the certificate of the garden-sardar, directed that every labourer engaged by him shall before registration be examined by a competent medical man and certified by him to be in a fit state of health to undertake the journey to the labour-district to which he intends to proceed, and physically and constitutionally fit for labour in the labour-districts, no Registering-officer shall register as a labourer any person appearing before him with the garden-sardar until such medical certificate as aforesaid has been produced and shown to him.

Fee of medi-  
cal officer  
when in Gov-  
ernment ser-  
vice for  
examination  
under section  
73.

**74.** Where the employer of a garden-sardar has, in the instructions specified in the certificate of the garden-sardar, directed that the examination referred to in section 73 shall be made by a medical officer in the service of the Government, such officer as aforesaid making the examination shall be entitled to receive from the local agent or garden-sardar such fee; for each labourer so examined, as may be agreed upon, and, if no agreement has been entered into, such fee as the Local Government, by general or special order, may direct.



75. Unless and until a person whom it is desired to engage as a labourer under this Chapter has executed a labour-contract under section 72, no garden-sardar shall remove or attempt to remove him to a labour-district or induce or attempt to induce him to go to a labour-district, or to leave the local area, or aid or attempt to aid him in proceeding to a labour-district.

Garden-sardar when to remove labourer to labour-district.

76. (1) A garden-sardar shall either himself accompany labourers engaged by him throughout their journey from the place in which the labour-contract was entered into, to the labour-district wherein they have contracted to labour, or shall send with them some competent person appointed by him with the approval of the local agent of his employer, or, if his employer has no local agent, with the approval of the officer by whom the labourers were registered.

Garden-sardar to accompany labourers or send competent person with them.

(2) When the number of labourers (exclusive of dependants) proceeding on their journey to a labour-district is more than twenty, for every twenty labourers so in excess, or for any number of labourers less than twenty so in excess, one additional garden-sardar or person so appointed by him shall accompany the labourers so proceeding.

77. A garden-sardar may, subject to the instructions specified in his certificate, engage any number of persons as labourers; and, subject to the provision of section 76, any number of labourers may be despatched at the same time to the labour-districts.

No restriction on number of persons engaged by garden-sardar.

78. A garden-sardar may, with the previous consent in writing of the local agent of the employer by whom his certificate was granted, or, if the employer has no local agent, with the previous consent in writing of the employer, be appointed under section 76 as a competent person to accompany labourers other than those engaged by him.

Appointment in certain cases of garden-sardar to accompany labourers not engaged by him.

79. (1) Every garden-sardar or person appointed by him as aforesaid who accompanies labourers to the labour-districts shall present to the officer before whom the labourers have executed a contract under section 72 a way-bill in such form and containing such particulars and instructions as the Local Government may prescribe.

Provision for way-bill.

(2) Every such garden-sardar or other person as aforesaid shall also present the way-bill at all such places and to all such officers as may be thereupon indicated, and shall carry out all instructions therein contained for his guidance.

80. Every garden-sardar or person appointed by him as aforesaid who accompanies labourers to the labour-districts shall provide the labourers and their dependants (if any), with proper and sufficient food and lodging throughout the journey.

Garden-sardar to provide food and lodging for labourers and dependants on journey.

Power for  
Magi-  
trate in  
certain  
cases to  
award  
compensa-  
tion or  
cancel  
contract.

81. Where it appears to any Magistrate, on the complaint of a labourer at any place on the journey, that the labourer or any person registered as his dependant has suffered ill-treatment during the journey at the hands of the garden-sardar or person appointed by the garden-sardar accompanying the labourer, or that the garden-sardar or person so appointed has failed to provide the labourer or any of his dependants with proper and sufficient food and lodging, or has wilfully abandoned the labourer or any of his dependants, the Magistrate may either order the garden-sardar or person so appointed to pay to the labourer a reasonable sum by way of compensation, or may cancel the labour-contract entered into by the labourer and order the garden-sardar or person so appointed to pay to the labourer such reasonable sum as the Magistrate may think necessary to enable him with his dependants (if any), to return to the place at which he was registered, or to his native district as to the Magistrate may seem fit.

Procedure on  
failure of  
garden-sardar  
to comply  
with order.

82. On the failure for the space of twenty-four hours of any garden-sardar or person appointed by him as aforesaid to comply with an order made under section 81 to pay any sum, the Magistrate may pay the same to or on behalf of the labourer concerned, and may recover it from the employer by whom the certificate of the garden-sardar was granted, or from the local agent of the employer.

Medical  
inspection of  
labourers en  
route.

83. Any Magistrate or Embarkation Agent may, if himself a medical man, medically examine, and, if not himself a medical man, send for medical examination by a medical man, any labourer or dependant who, while on the journey to the district to which he intends to proceed, appears to the Magistrate or Embarkation Agent, as the case may be, not to be in a fit state of health to proceed thereto.

Detention and  
return of  
labourer  
declared  
when en  
route to be  
unfit to  
travel.

84. (1) Where any labourer or dependant is, on examination under section 83, declared not to be in a fit state of health to undertake the journey to the labour-district to which he intends to proceed, the Magistrate or Embarkation Agent may order the labourer or dependant to be detained at such place as he may think proper until in a fit state of health to undertake the journey.

(2) In any such case as is provided for by sub-section (1), the labourer or dependant, when in a fit state of health to undertake the journey, shall, if the garden-sardar or person appointed by the garden-sardar accompanying him, or the employer by whom the certificate of the garden-sardar was granted or his local agent, so wishes, be forwarded to the labour-district, or if otherwise, to his native district or the place where he was registered as to the Magistrate or Embarkation Agent may seem fit.

(3) While any labourer or dependant is detained under sub-section (1), he shall be entitled to be fed, lodged, clothed and (if necessary), medically treated at the expense of the employer with whom the labourer, or the labourer to whom the dependant is attached, has contracted to labour.

85. (1) Where an order under section 84 has been made with reference to any labourer, any person registered as his dependant, and any other labourer being his or her wife or husband, shall be entitled,— Dependants of labourer when to be fed, etc.

- (a) until the labourer is in a fit state of health to undertake the journey, to be fed, lodged, clothed and (if necessary), medically treated at the place where the labourer is detained, and at the cost of the employer with whom the labourer has contracted to labour, and
- (b) to be sent back to the same place (if any), as the labourer.

(2) Where an order has been made under sub-section (1) with reference to any dependant, the labourer to whom the dependant is attached shall thereupon until the dependant is in a fit state of health to undertake the journey to the labour-district, be entitled, if the labourer so wishes, and if he or she is the husband, wife, son or daughter of the dependant, to be fed, lodged, clothed and (if necessary), medically treated at the place where the dependant is detained, and at the cost of the employer with whom the labourer has contracted to labour; and the labourer shall, if he or she so wishes, and if he or she is the husband, wife, son or daughter of the dependant, be sent back to the same place (if any), as the dependant.

(3) Where a labourer is entitled and claims to be so fed, lodged, clothed and (if necessary) medically treated, or to be so sent back, any person registered as his or her dependant, and any other labourer, being the wife or husband of the labourer, shall be entitled, as the case may be,—

- (a) to be fed, lodged, clothed and (if necessary), medically treated at the place where the dependant is detained, and at the cost of the employer, until the dependant is in a fit state of health to undertake the journey to the labour-district, or
- (b) to be sent back to the same place as the labourer.

86. Where a garden-sardar or person appointed by a garden-sardar accompanying any labourer or dependant fails to provide the labourer or dependant with food, lodging, clothing and medical treatment, or to send him back as required by section 84 or section 85, the Magistrate or Embarkation Agent, Payment of expenses of detention and return-journey of labourer. may order the garden-sardar or person so appointed to pay such sum as the Magistrate or Embarkation Agent, as the case may be, may think necessary to provide food, lodging, clothing and medical treatment, or to defray the cost of the return-journey of the labourer or dependant; and, on failure for

the space of twenty-four hours of the garden-sardar or person so appointed to comply with the order, the Magistrate or Embarkation Agent, as the case may be, may pay the sum specified in the order to or on behalf of the labourer or dependant concerned, and may recover it from the employer by whom the certificate of the garden-sardar was granted, or from the local agent of the employer.

Representative of employer may procure order from Superintendent canceling the labour-contract on payment of expense of return.

87. (1) Where a labour-contract has been executed by a garden-sardar on behalf of his employer, any local agent or other representative of the employer may require the labourer to appear before the Superintendent for the cancellation of his labour-contract.

(2) If when the labourer appears under sub-section (1), such reasonable sum as the Superintendent may think necessary to enable the labourer and his dependants (if any), to return to the native district of the labourer or to the place at which he was registered, as to the Superintendent may seem fit, and such further sum (if any), by way of compensation as the Superintendent may think reasonable, are paid to the labourer in his presence, the Superintendent may declare the labour-contract cancelled, and, in that event, shall make an endorsement to the like effect on the labourer's copy of the labour-contract and attest the endorsement with his signature.

Cancellation of contracts of relatives.

88. (1) Where the Superintendent declares the labour-contract of any labourer to be cancelled, any other labourer who is the wife, husband, father, mother, son or daughter of the labourer and has entered into a labour-contract at the same place with the same employer, may claim to have her or his labour-contract cancelled at the same time.

(2) Where claim is made under sub-section (1), the Superintendent shall declare the labour-contract of the claimant to be cancelled, and shall order the local agent or representative of the claimant's employer to pay to the claimant such reasonable sum as the Superintendent may think necessary to enable him and his dependants (if any), to return to the same place as the labourer.

(3) On the failure for the space of twenty-four hours of the local agent or representative to comply with an order made under sub-section (2), the Superintendent may pay the sum specified in the order to or on behalf of the claimant concerned, and may recover the same from the employer by whom the certificate of the garden-sardar was granted, or from the local agent or representative who appears on behalf of the employer.

Cost of escort for repatriated labourer.

89. When an order is made under section 81, 86 or 88 for payment of the costs of the return-journey of any labourer or other person, the Magistrate may order the garden-sardar or other person liable in respect of such costs to

pay also the cost of providing such escort to accompany the labourer or other person during his return-journey as the Magistrate may think necessary.

## CHAPTER V.

### ENGAGEMENT OF EMIGRANTS OTHERWISE THAN UNDER <sup>1</sup>[CHAPTER IV].

**90.** [*Special provisions as to engagement of emigrants through garden-sardars.*] *Rep. by Act VIII of 1915.*

**91.** [The Local Government may, by notification in the local official Gazette, declare that

(a) *	*	*	*	*	
(b) in the case of garden-sardars holding certificates granted under					
Chapter IV	5*	*	*		
that Chapter	6*	*	*		

, any of the requirements of that Chapter

Power to Local Government to relax certain provisions of Act.

may be dispensed with, or relaxed on such conditions as may be prescribed in the notification.]

**92.** Subject to the provisions of section 3 and of any notification issued thereunder, nothing in this Act shall be deemed to prohibit any person from engaging or assisting natives of India to emigrate to a labour-district otherwise than in accordance with the provisions of <sup>1</sup>[Chapter IV] and of <sup>2</sup>[section 91.]

Saving of engagement of emigrants otherwise than under foregoing provisions of Act.

**93.** (1) The following provisions of this Act shall apply to the transport

Application of Act to

<sup>1</sup> This word and figure were substituted for the words and figures "Chapters III and IV" by s. 7 (2) of the Assam Labour and Emigration (Amendment) Act, 1915 (VIII of 1915), *infra*, p. 321.

<sup>2</sup> This section was substituted by s. 2 of the Assam Labour and Emigration (Amendment) Act<sup>1</sup> 1908 (XI of 1908), *infra*, p. 319.

<sup>2</sup> For notifications under s. 91, see C. P. Local Rules and Orders.

<sup>4</sup> Clause (a) was repealed by s. 7 (1) and Sch. of the Assam Labour and Emigration (Amendment) Act, 1915 (VIII of 1915), *infra*, p. 321.

<sup>5</sup> The words and figures "or holding permits granted and countersigned under s. 90" were repealed by s. 6 (1) of *ibid.*

<sup>6</sup> The words "or of that section, as the case may be" were repealed by s. 6 (1) of *ibid.*

<sup>7</sup> These words and figures were substituted for the words and figures "sections 90 and 91" by s. 6 (2) of *ibid.*

persons  
engaged  
under this  
Chapter.

and employment of persons engaged or assisted to emigrate under this Chapter and not bound by labour-contracts, namely :—

(a) in CHAPTER VI (TRANSPORT) :—

- (i) sections 94 and 95 (routes and transport by sea) ;
- (ii) sections 96 to 99 (passenger licenses) ;
- (iii) sections 100 and 101 (Embarkation Agent's powers and returns by master) ;
- (iv) section 103 (medical officer) ;
- (v) section 104 (delay in departure) ;
- (vi) sections 107 to 110 (Magistrates' powers) ;
- (vii) section 112 (disinfection) ;
- (viii) section 113 (excess passengers) ;
- (ix) section 114 (breaches of Act and rules) ; and
- (x) section 116 (delegation of magisterial powers) ;

(b) in CHAPTER VII (LABOUR-DISTRICTS) :—

- (i) section 123 (registers and returns) ;
- (ii) section 123 (inspection) ; and
- (iii) sections 159, 161 and 162 (repatriation) ;

(c) in CHAPTER VIII (RULES) :—

all powers conferred by section 163, except in so far as the same relate exclusively to labourers and their dependants ;

(d) in CHAPTER IX (PENALTIES AND PROCEDURE) :—

- (i) sections 176, 177, 181, 182 and 183 (offences connected with transport by river) ; and
- (ii) sections 185 and 186 (offences by employers) ; and

(e) in CHAPTER X (MISCELLANEOUS) :—

- (i) section 215 (recovery of sums due) ; and
- (ii) sections 218 to 223 (fines, etc., Assistant Inspector, officers' powers, exemption, prior notifications, and repeal).

(2) Except as indicated in sub-section (1), nothing in <sup>1</sup>[Chapter II or IV] or in <sup>2</sup>[Chapters VI (except Chapter VI A) to X] inclusive shall apply to persons engaged or assisted to emigrate under this Chapter and not bound by labour-contracts.

## CHAPTER VI.

### TRANSPORT.

#### *Routes, etc.*

Routes to be  
followed and

94. Every person who forwards or accompanies labourers or emigrants under Chapter V or their dependants to a labour-district shall forward or take

<sup>1</sup> These words were substituted for the words "Chapters II to IV inclusive" by section 7 (2) of the Assam Labour and Emigration (Amendment) Act, 1915 (VIII of 1915), *infra*, p. 321.

<sup>2</sup> These words were substituted for the words "Chapters VI to X" by *ibid*

them by the prescribed route, or one of the prescribed routes, and shall conform to the rules made under this Act, in so far as the said rules apply to himself and to the persons emigrating under his charge. rules observed.

*Transport by River.*

95. Nothing in this Chapter shall apply to the transport by sea of natives of India to the labour-districts. Transport by sea to labour-districts.

96. (1) No master shall receive more than twenty passengers, being natives of India, on board his vessel for the purpose of transporting them to a labour-district, unless a license to carry passengers in his vessel has been granted to him under this Chapter by an Embarkation Agent duly empowered in that behalf by the Local Government. Vessels to carry more than twenty passengers to be ordinarily licensed.

(2) The Local Government may, by notification in the local official Gazette, exempt from the provisions of this section any vessel or class of vessels.

97. (1) The master or owner of any vessel who desires to obtain a license under this Chapter to carry passengers in his vessel shall make a written application for a license to an Embarkation Agent empowered as aforesaid. Application for license.

(2) Every application made under sub-section (1) shall state such particulars respecting the vessel as the Local Government may, by rule, prescribe.

98. Where the Embarkation Agent to whom an application is made under section 97, sub-section (1), is of opinion that the vessel is in all respects suitable for carrying passengers being natives of India to a labour-district, he shall give to the master of the vessel a license to carry passengers therein, specifying the number of passengers, being natives of India, who may be received on board. Grant of license.

99. Such fee, not exceeding sixteen rupees, as the Local Government may, with reference to the size of the vessel, by rule direct, shall be paid for every license granted under section 98, and no license so granted shall be in force for more than one voyage. Fee for license.

Provided that a license may, with the previous sanction of the Local Government, be granted under the said section to the master of any vessel for any term not exceeding one year, on payment of such fee, not exceeding one hundred rupees, and on such conditions, as the Local Government may, by rule, prescribe.

100. (1) Any Embarkation Agent may, in accordance with such rules as the Local Government may make in this behalf, direct, by order in writing that on any particular voyage or part of a voyage, any master licensed under this Chapter shall not receive on board his vessel more than a specified number of passengers, being natives of India, which number shall be less than the number specified in the license granted to the master. Embarkation Agent may limit number to be received on board on any particular voyage.

(2) In computing the number of persons on board a vessel, two children under the age of ten years shall, for the purposes of this Chapter, be reckoned as one person only.

Master to  
make returns.

101. Every master licensed under this Chapter shall keep such lists, submit such returns, and make such reports in regard to the passengers carried in his vessel, as the Local Government may, by rule, prescribe.

Provisions,  
clothing,  
medical and  
other officers,  
cooks, etc.

102. Every master licensed under this Chapter shall have on board his vessel carrying labourers and their dependants such supplies of provisions and clothing, and such medical and other officers, cooks and attendants, as the Local Government may, by rule, prescribe.

Medical  
officer to be  
licensed.

103. No medical officer shall be appointed to any vessel in respect of which a license is granted under this Chapter, unless he holds a license granted by such authority as the Local Government may appoint in that behalf; and any medical officer so licensed shall be forthwith removed from his appointment on the requisition of any officer empowered by the Local Government to make such a requisition.

#### *Departure of passenger-vessels and Procedure during Voyage.*

Embarkation  
Agent may  
order  
departure of  
vessel if  
delay occurs.

104. Where it appears to an Embarkation Agent that the departure of a vessel in respect of which a license is granted under this Chapter is unduly delayed beyond the date fixed by the order of a Superintendent or of the Local Government, or notified by advertisement in the public press, for such departure, he may order the master of the vessel to proceed on his voyage at once.

Master to  
receive way-  
bills from  
Embarkation  
Agent.

105. (1) No master licensed under this Chapter shall proceed on a voyage with his vessel carrying labourers until he has received from the Embarkation Agent the way-bills relating to all labourers on board in respect of whom way-bills are required by this Act or by the rules made thereunder.

(2) The Embarkation Agent and the master of the vessel shall together personally ascertain that the number of such labourers on board corresponds with the number entered in the way-bill.

(3) The Embarkation Agent shall send a copy of every way-bill granted under sub-section (1) to the Magistrate of the labour-district to which such labourers are proceeding.

Labourers not  
finally to  
leave vessel at  
any place  
other than  
that  
mentioned in  
way-bill.

106. No master licensed under this Chapter shall cause or permit any labourer entered in any such way-bill finally to leave his vessel at any place other than that named in the way-bill as the destination of the labourer:

Provided that nothing in this section shall be deemed to prevent the master of a vessel from permitting such labourers to disembark at any place on the voyage so long as the disembarkation is not intended, or known to be



likely, to be dead, nor to prevent the final disembarkation of any such labourers or the transfer of such labourers with their dependants to another vessel in case of accident or unavoidable necessity :

Provided also that every such accident or necessity as aforesaid shall forthwith be reported by the master to the Embarkation Agent by whom he was licensed, and to the nearest Magistrate in the district within which the accident has occurred or the necessity has arisen.

107. (1) Every master licensed under this Chapter shall stop his vessel carrying passengers, being natives of India, at such places, being places where a Magistrate is stationed, and shall, unless the Magistrate permits him to depart earlier, remain at each such place for such time, not exceeding six hours of daylight, as the Local Government may direct.

Master to stop his vessel at certain places where there is a Magistrate.

(2) The master shall, on arriving at such a place as aforesaid, immediately report to the Magistrate the number of the crew and other persons on board, the general state of their health, and the number of deaths (if any), which have occurred among the persons on board his vessel.

108. (1) Any Magistrate may, while a vessel in respect of which a license is granted under this Chapter is within the local limits of his jurisdiction, go on board the vessel and inspect it and all persons, being natives of India, on board.

Power for Magistrates to inspect vessels.

(2) The master and officers of any such vessel as aforesaid shall afford to the Magistrate every facility for inspection, and give him all such information as he may reasonably require respecting the labourers or other persons on board, the deaths (if any), which have occurred on board, and any other facts affecting the health of the passengers.

109. Any Magistrate may, while a vessel in respect of which a license is granted under this Chapter is within the local limits of his jurisdiction, regulate the communication between the vessel and the land, and prohibit all persons from leaving the vessel, and all persons on land from proceeding on board.

Power for Magistrate to regulate communication between vessels and land.

110. (1) Any Magistrate may, if he has reason to believe that any passengers, being natives of India, on board a vessel within the local limits of his jurisdiction, in respect of which a license is granted under this Chapter, are, or are likely to be, affected with any dangerously infectious or contagious disease, detain the vessel and depute the civil medical officer of the district or any other qualified medical officer to inspect such passengers as aforesaid and to report on their health, stating whether any or what measures are requisite for the removal or prevention of the dangerously infectious or contagious disease.

Power for Magistrates to detain vessels for inspection and to detain sick native passengers.

(2) On receiving the report of the medical officer so deputed, the Magistrate may order any such passenger as aforesaid who is suffering from any dangerously infectious or contagious disease to be disembarked and detained for medical treatment.

Detention of  
sick labourers  
by Magis-  
trate.

111. (1) Where on receiving the report of a medical officer deputed under section 110, sub-section (1), it appears to a Magistrate that a labourer or any dependant of any such labourer, though not suffering from a dangerously infectious or contagious disease, is not in a fit state of health to proceed to the labour-district in which the labourer has contracted to labour he may order the labourer or dependant to be detained, and shall cause necessary arrangements to be made for his accommodation, support and medical treatment.

(2) Any expenditure incurred under sub-section (1) may be recovered from the employer of the labourer concerned.

Power for  
Magistrate  
to detain  
vessel to be  
cleaned and  
disinfected.

112. (1) Where, in the opinion of a medical officer deputed under section 110, sub-section (1), it is dangerous to the health of the general body of the passengers to allow the vessel to proceed until measures have been taken to cleanse and disinfect her, the Magistrate may detain the vessel for a further period, not exceeding three days, for the purpose of carrying out those measures.

(2) Any expenditure incurred under sub-section (1) may be recovered from the master or owner of the vessel.

Measures to  
be taken if  
excess  
number of  
native passen-  
gers is found  
on board.

113. (1) Where it appears to a Magistrate making an inspection of a vessel, in respect of which a license is granted under this Chapter, that the number of passengers on board, being natives of India, is larger than the number specified in the license or than the number specified in an order of an Embarkation Agent made under section 100, he may remove the excess number and detain them until another opportunity of forwarding them to their destination is found.

(2) Any expenditure incurred in maintaining passengers detained under sub-section (1) and in forwarding them to their destination may be recovered from the master or owner of the vessel.

Infraction of  
the Act and  
rules to be  
reported.

114. Where it appears to a Magistrate making an inspection of a vessel in respect of which a license is granted under this Chapter, that any of the provisions of this Act or of any rule thereunder have not been complied with in respect of the vessel, he shall report the fact to the Embarkation Agent by whom the license was granted ; and, if he considers it necessary to do so, he may detain the vessel until such provisions as aforesaid have been so complied

with as to make it possible for the voyage to be further prosecuted with safety and reasonable comfort to the emigrants.

115. (1) The Local Government may make rules to regulate—

- (a) the disembarkation of labourers and their dependants, and their inspection and accommodation on arrival at their destinations;
- (b) the detention of labourers and their dependants at debarkation depots;
- (c) the forwarding of labourers to their destinations and the closing and return of way-bills by employers.

Power to make rules regulating disembarkation and other matters.

(2) Any expenditure incurred in pursuance of any rules made under subsection (1), may be recovered from the employers of the labourers concerned.

116. The District or Sub-divisional Magistrate may authorize any subordinate Magistrate, medical officer or officer of police above the rank of sub-inspector to exercise the powers and authorities conferred, and to perform the duties imposed, on a Magistrate under sections 107 to 114.

Deputation of other officer to discharge the functions of a Magistrate under sections 107 to 114.

### <sup>1</sup>[CHAPTER VI-A.

#### ASSAM LABOUR BOARD.

116-A. (1) There shall be a Board, to be called the Assam Labour Board, for the supervision of local agents, and of the recruitment, engagement and emigration to labour-districts of natives of India under this Act.

Constitution of Assam Labour Board.

(2) The Assam Labour Board shall be a body corporate, and have perpetual succession and a common seal, and may by that name sue and be sued.

(3) The Assam Labour Board (hereinafter called the Board) shall consist of sixteen members, including the Chairman, who shall be an officer in the service of Government, to be appointed by the Governor General in Council by notification in the *Gazette of India*. The remaining members shall be elected by the following bodies, namely,—

- (a) eight by the Indian Tea Association, Calcutta, as representatives of that Association and of the Indian Tea Association, London;
- (b) four by the Assam Branch, Indian Tea Association; and
- (c) three by the Surma Valley Branch, Indian Tea Association.

(4) The election shall be made in such manner as may be determined by the electing bodies, subject to the approval of the Governor General in Council, and the name of every person so elected shall be published in the *Gazette of India*.

(5) If within the period prescribed by rules made under this Chapter any of the aforesaid bodies fails to elect representatives or to elect the full number of representatives to which it is entitled, the Governor General in Council may nominate persons to be members of the Board as representatives of the said bodies.

<sup>1</sup> Chapter VI-A. (ss. 116-A. to 116-F.) was inserted by s. 5 of the Assam Labour and Emigration (Amendment) Act, 1915 (VIII of 1915) *infra*, p. 320.

(6) There shall be an Executive Committee of the Board, with such powers and duties as may be conferred on it by rules made under this Chapter. It shall consist of five members, of whom one shall be the Chairman of the Board, and the remaining four shall be elected in the manner prescribed by such rules, as representatives of the following bodies, namely—

- (a) one of the Indian Tea Association, Calcutta ;
- (b) one of the Indian Tea Association, London ;
- (c) one of the Assam Branch, Indian Tea Association ; and
- (d) one of the Surma Valley Branch, Indian Tea Association.

(7) No act done by the Board or by the Executive Committee shall be questioned on the ground merely of the existence of any vacancy in or any defect in the constitution of the Board or of the Executive Committee, as the case may be.

Salary of  
Chairman.

**116-B.** (1) The Governor General in Council may fix the salary of the Chairman of the Board.

(2) Such salary shall be paid in such proportions by the Governor General in Council and the Board, as the Governor General in Council may from time to time determine.

Appointment  
and functions  
of Supervi-  
sors.

**116-C.** (1) The Board may appoint so many persons as it thinks necessary to be Supervisors, with such powers and duties in respect of the supervision of local agents and the other matters mentioned in section 116-A (1) as may be conferred and imposed on them by rules made under this Chapter.

(2) Subject to the control of the Governor General in Council, the Board may fix the salary to be paid to Supervisors.

(3) The Local Government may, subject to the control of the Governor General in Council, declare the local area in the Province within which Supervisors shall exercise the powers and perform the duties conferred and imposed upon them by rule under this Chapter.

(4) Every Supervisor shall be deemed to be a public servant within the meaning of the Indian Penal Code. XLV of 18

Endorsement  
of local  
agents  
licenses.

**116-D.** (1) Whenever the Board has reason to believe that the conduct of a local agent has been such as to detract from his suitability to hold a license it may call on him to produce his license, and after hearing any cause that he may have to show to the contrary, may make such endorsement thereon as it thinks fit. A copy of every such endorsement shall be sent to the Superintendent of Emigration in the district for which the local agent holds a license, and a copy shall also be sent to the employer or association or firm on whose application the local agent's license was granted.

(2) If the local agent fails to produce his license when called upon under sub-section (1), he shall be punishable with fine which may extend to two hundred rupees.

**116-E.** (1) Subject to the provisions of rules made under this Chapter, Cess, the Board may levy a cess on employers for the purpose of meeting expenditure incurred in carrying out its functions under this Act, and in particular for the payment of the salary of Supervisors and of such proportion of the salary of the Chairman as may be determined under section 116-B.

(2) Such cess shall be payable on every garden-sardar deputed by his employer to engage labourers and on every person recruited or engaged as a labourer or assisted to emigrate under Chapter IV or section 91 :

Provided that the rates at which the cess is levied shall not exceed the following, namely:—

five rupees a year on each garden-sardar so deputed ; and

five rupees on each person so recruited, engaged, or assisted to emigrate.

(3) On the failure of an employer for the space of one month after the receipt of a notice in such form and served in such manner as the Governor General in Council may, by rule under this Chapter, prescribe, to pay any sum due under sub-section (1), the same shall be recoverable from him.

**116-F.** (1) The Governor General in Council shall, after previous publication, make rules to carry out the purposes of this Chapter.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may, subject to the provisions of this Act, provide—

(a) for the powers to be exercised and the duties to be performed by the Board in carrying out the purposes for which it is constituted, and for the powers and duties of the Executive Committee and of the Chairman ;

(b) for the period within which elections to the Board must be made ; for the election of members of the Executive Committee ; and for the appointment of temporary or acting members of the Board and of the Executive Committee during the absence of any member ;

(c) for the times and places of meetings and procedure of the Board and of the Executive Committee ;

(d) for regulating the rate of the cess, the method of levying and collecting the cess, the purposes to which the cess may be applied, and the accounts to be kept and the audit thereof ; and

(e) for the powers and duties of Supervisors appointed under section 116-C.]

## CHAPTER VII.

## PROVISIONS AS TO THE LABOUR-DISTRICTS.

*Annual Rate payable by Employers.*

Annual rate  
payable by  
employer.

117. (1) Every employer shall, on the first day of January and the first day of July in each year, pay in respect of each labourer then in his employ such rate, not exceeding an annual sum of one rupee, as the Local Government may, by notification in the local official Gazette, direct.

(2) On the failure of an employer, for the space of one month after the receipt of a notice in such form and served in such manner as the Local Government may prescribe, to pay any sum due under sub-section (1), the same may be recovered from him.

*Local Labour-contracts.*

Labour-con-  
tracts exe-  
cuted in  
labour-dis-  
tricts  
between em-  
ployer and  
native direct.

118. (1) Any employer may enter into a labour-contract for a term not exceeding one year commencing from the date of the execution of the labour-contract, with any native of India within the labour-district in which the estate to which the labour-contract refers is situate.

(2) Where an employer has under sub-section (1) executed a labour-contract within a labour-district, he shall, within one month from the date of the execution of the labour-contract, forward it in duplicate to the Inspector within the local limits of whose jurisdiction the estate is situate. On receipt of the labour-contract so forwarded, the Inspector shall enter an abstract thereof in a register to be kept by him for the purpose, and shall then give one copy of the labour-contract to the labourer and the other to his employer.

Verification  
and cancella-  
tion of such  
contracts.

119. When, for the first time after the registration, under section 118, sub-section (2), of a labour-contract with a labourer, the Inspector visits the estate on which the labourer is employed, the employer shall cause the labourer to appear before the Inspector for the purpose of having his contract verified, and the labourer may thereupon apply to the Inspector to cancel his labour-contract; and, if the labourer shows cause sufficient, in the opinion of the Inspector, to justify the cancellation of his labour-contract, the Inspector shall cancel the same and shall thereupon make an endorsement that it has been cancelled on the labourer's copy of the labour-contract, or, if that copy is not forthcoming, shall give to the labourer a certificate to the like effect.

Power of  
Inspector or  
Magistrate  
to require  
labourer who  
has executed  
such contract  
to appear  
before him.

120. The Inspector or Magistrate may, either on the application of the employer or the labourer or of his own motion, require the employer to cause any labourer who has entered into a labour-contract under section 118 and is employed upon any estate within the local limits of the jurisdiction of the Inspector or Magistrate, to appear before him for the purpose of having his labour-contract verified; and, if the labourer applies to the Inspector or

Magistrate to cancel his labour-contract and shows cause which the Inspector or Magistrate, after considering any cause which may be shown by the employer to the contrary, considers sufficient to justify its cancellation, the Inspector or Magistrate shall cancel the same as provided by section 119.

121. (1) Notwithstanding the provisions of section 118, an employer may enter into a labour-contract with any native of India in a labour-district for a term not exceeding four years commencing from the date of the execution of the labour-contract, if he appears, or deposes some person to appear on his behalf, with the native of India before the Inspector or Magistrate within the local limits of whose jurisdiction the estate to which labour-contract refers is situated.

Labour-con-  
tracts exe-  
cuted within  
labour-dis-  
trict before  
Inspector or  
Magistrate.

(2) The Inspector or Magistrate shall thereupon explain the labour-contract to the native of India, and shall, if satisfied that he is competent to enter into and understands the same, call upon him and the employer or the person deputed as aforesaid to execute it in his presence; and, if they execute it, shall attest the execution with his signature.

(3) An abstract of every labour-contract executed under this section shall be entered in a register to be kept by the Inspector or Magistrate for the purpose; and one copy of the labour-contract shall then be given to the labourer and the other to his employer or the person deputed as aforesaid.

(4) In respect of every labour-contract, an abstract whereof is registered under section 118 or under this section, the employer who executes the labour-contract in person or the person deputed to execute the same on his behalf shall pay to the Inspector or Magistrate such fee, not exceeding one rupee, as the Local Government may direct.

### *Employers' Returns and Magistrates' Inspections.*

122. (1) Every employer shall keep such registers of all labourers and other persons employed on the estate of which he is in charge, and of their dependants, in such form, and shall make to the Inspector, within the local limits of whose jurisdiction the estate is situate, such periodical returns in writing, as the Local Government may, by rule, prescribe.

Registers to  
be kept and  
returns made  
by employers.

(2) The Inspector may examine the registers so kept and muster all labourers and other persons employed on any estate within the said local limits, and may verify the accuracy of the entries in the registers, or in any prescribed periodical return.

123. Any Inspector or Magistrate, or any person authorised by either of them in writing in this behalf, may enter and inspect all lands and houses wholly or partially used by or for labourers, or by or for any other natives of India employed on any estate, and may require that all such labourers or

Power for  
Inspector,  
etc., to in-  
spect lands  
and houses  
and to make

requestion  
and inquiries

other natives of India as aforesaid or any particular class of such individual or individuals of them shall be brought before him, and that the object of the labour-concern of any labourer shall be produced, and may make any inquiries which he thinks proper touching the condition or treatment of such labourers or other natives of India as aforesaid or any of them; and the employers shall be bound to comply with every request made in connection with any enquiry so made to the best of his ability.

### *Regulation of Labour.*

Schedule of  
daily work  
to be  
prepared.

124. (1) Every employer shall prepare a schedule specifying the tasks to be executed by each labourer employed on the estate of which the employer is in charge, and may, from time to time, alter any schedule so prepared.

(2) One copy of every schedule prepared under a direction (1) shall be filed in a book, which shall be open to the examination of the Inspector, and translations thereof, in such languages as the Chief Commissioner of Assam may direct, shall be affixed in some conspicuous place accessible to the labourers to whom the schedule relates.

(3) The minimum payment for each daily task shall be the quotient resulting from dividing the monthly wage of the labourer concerned by the number of working days in the current month. The number of working days in a month shall be ascertained by deducting the number of Sundays from the whole number of days in the month.

Limitation  
on tasks and  
payment of  
wages.

125. (1) No labourer shall be bound to labour more than six days in one week, or more than six consecutive hours, or more than nine hours in one day.

(2) Every employer shall, on six days in each week, provide for each labourer work sufficient to enable him to earn at least his minimum daily wage; and, failing such due provision of work, the labourer shall, if he can show that he was able and willing to labour for the same, be entitled to claim his minimum daily wage.

(3) On or before the fifteenth day of each month an employer shall pay to every labourer in his employment the wages earned by the labourer during the preceding month and still unpaid.

Provisions  
for revision  
of schedule  
by Inspector  
subject to  
appeal to  
Committee.

126. (1) Where the Inspector considers that any schedule of daily tasks, or any part thereof, is unreasonable, he may, by order in writing, direct that such reduction as is specified in the order be made in the scheduled daily tasks.

(2) The employer shall at once make the reduction so ordered, but may, if dissatisfied with the order of the Inspector, by notice in writing, require the Inspector to summon a Committee to inquire into the schedule.



(2) Every Committee summoned under sub-section (2), shall consist of—

(a) the Inspector ;

(b) some person to be nominated by the employer whose schedule is to be inquired into ; and,

(c) if practicable, a medical officer.

(2) Where the employer fails to nominate a person within seven days after being thereunto requested in writing by the Inspector, the Inspector instead of the employer so failing, may nominate a person.

(3) Where the Committee consists only of the Inspector and of a person nominated by the employer or Inspector, the Inspector shall have the casting vote.

127. (1) Where the Committee, or a majority thereof, is of opinion that the scheduled daily tasks or any of them are unreasonable, the Committee shall order them to be modified and reduced in such manner as it may think fit. Committee to revise schedule.

(2) The employer shall thereupon alter the schedule accordingly, and copies and translations of the same so altered shall be filed and affixed in the manner provided by section 124, and shall, as between him and the labourers concerned, take the place of the former schedule.

128. (1) Notwithstanding anything contained in any schedule of daily tasks, the Inspector may order that any specified labourer, who is, in his opinion, unable from weakness to earn by his labour the sum of one anna and-a-half per diem, according to the schedule, shall receive, in lieu of actual earnings, subsistence-allowance at the rate of one anna and-a-half per diem, or diet on a scale to be approved by the Inspector. Provision for weakly labourers.

(2) Any subsistence-allowance ordered under sub-section (1) may be recovered from the employer of the labourer concerned.

### *Incapacity for Labour.*

129. (1) The Inspector within the local limits of whose jurisdiction a labourer is employed may release the labourer, for such period as he thinks fit, from performing his labour-contract, if he is, in the opinion of the Inspector, temporarily unfitted, by reason of sickness or any other sufficient cause, for the performance thereof. Inspector may suspend contract of any labourer temporarily unfitted for labour.

(2) Every release granted under sub-section (1) shall be endorsed by the Inspector on the labour-contract and the time during which the release continues shall not be reckoned as part of the term for which the labour is bound to serve.

(3) Every labourer released as aforesaid shall, during the release, receive such subsistence-allowance from his employer as the Inspector may think sufficient.

Labourer  
absent from  
sickness.

130. (1) Where any labourer is compelled, by reason of sickness, to absent himself from work, he shall receive from his employer, for each day on which he is so absent, subsistence-allowance at the rate of one anna and-a-half or, if in hospital, sick-diet on a scale to be approved by the Inspector.

(2) Where the period during which a labourer is so absent exceeds the total number of thirty days in any one year, and the employer, as soon as that number is exceeded, gives the labourer a notice in writing to that effect, each day of absence in excess of that number shall be added to the term of the labour-contract, unless the labourer refunds to the employer the sum of one anna and-a-half for each day so in excess.

(3) The Inspector shall, from time to time, when visiting the estate, on the application of the employer, and may also at any other time, on the application of either the employer or a labourer, endorse on the labour-contract of the labourer, after such inquiry as he may think necessary, the number of days so to be added to the term thereof :

Provided that an employer, who omits to apply for such endorsement as aforesaid at the time when the Inspector is actually visiting the estate, shall in the absence of sufficient reasons to the contrary shown to the satisfaction of the Inspector, be debarred from applying afterwards for endorsement in so far as days of absence which occurred prior to the date of the Inspector's last visit are concerned.

Discharge of  
labourer  
permanently  
incapaci-  
tated.

131. (1) Where, in the opinion of the Inspector, a labourer is permanently incapacitated for the performance of his labour-contract or any material part thereof, the Inspector shall certify to that effect in writing and deliver the certificate to the employer of the labourer or to the representative of the employer, and, from the date of the certificate, the labour-contract of the labourer shall wholly determine.

(2) Every labourer whose labour-contract so determines shall be entitled to receive from his employer such sum, not exceeding three months' wages, as the Inspector may award.

(3) Every sum so awarded and any such subsistence-allowance as is provided for by section 129 or section 130 may be recovered from the employer of the labourer concerned.

#### *Accommodation for Labourers.*

House-ac-  
commoda-  
tion, water-  
supply and  
sanitary  
arrangements  
for labourers.

132. Every employer shall be bound to provide for the labourers employed on the estate of which he is in charge such house-accommodation, water-supply and sanitary arrangements as the Local Government may, by rule, prescribe.

Supply of  
food-grain

133. (1) Where the food-grain commonly used by any class of labourers is not procurable by them at reasonable prices in the local markets near the

estate on which they are employed, their employer shall be bound to supply for labourers. them therewith at a reasonable price.

(2) The Local Government may, by notification in the local official Gazette, declare, either generally or for each district or part of a district, what shall, for the purposes of this section, be deemed to be a reasonable price.

134. (1) Subject to such rules as the Local Government may make in this behalf, any Inspector may, by order in writing, — Provisions  
for rationing.

(a) direct that, on any specified estate within the local limits of his jurisdiction, all labourers or any specified class of labourers shall be furnished by their employers with rations, cooked or uncooked on such scale and for such period, not exceeding three months from the date of their arrival on the estate, as may be specified in the order;

(b) direct that any specified labourer shall be exempt from the effect of any general order so made, if he is satisfied that the labourer is able to earn a full wage and desires to provide himself with proper and sufficient food;

(c) direct that any specified labourer shall be furnished with rations for any term not exceeding six months, and renew that direction for a like term.

(2) The cost of each labourer's ration furnished to him in accordance with any direction given under sub-section (1) shall be calculated at current rates as determined by the Inspector, and shall be deducted from any wages earned by the labourer during the period for which the direction is in force.

135. Where, in the opinion of the Inspector, an employer does not provide such hospital-accommodation in a suitable place available to the labourers employed upon the estate of which he is in charge, or does not make such provision for the medical treatment of his labourers, as the Local Government may direct, the Local Government may require the employer to contribute to the support of a central hospital to be established, or to the pay of a medical officer to be appointed, such sums, proportionate to the number of labourers so employed, as it thinks fit. Provision  
for hospital-  
accommoda-  
tion and  
medical  
attendance.

136. (1) Any Inspector or Assistant Inspector, who is himself a Magistrate, may, with respect to any estate situate within the local limits of his jurisdiction, inquire whether the employer in charge of the estate has provided for his labourers house-accommodation, water-supply, sanitary arrangements, food-grains and rations in accordance with any rules made by the Local Government under section 132 or 134 or any notification issued under section 133. Enquiry  
whether em-  
ployer has  
failed to pro-  
vide accom-  
modation, etc.,  
as required by  
the rules.

(2) At the instance of any Inspector or Assistant Inspector, a similar inquiry may be made by a Magistrate.

(3) Every inquiry under this section shall be made at some place on, or within ten miles of, the estate to which it relates, and shall be conducted and dealt within as if it were an enquiry by a Magistrate under the Code of Criminal Procedure, 1898.

V of 1898

*Localities unfit for the Residence of Labourers.*

Report by  
Inspector and  
inquiry by  
Committee.

137. (1) Where, in the opinion of the Inspector, an estate or portion of an estate situate within the local limits of his jurisdiction is, at any time, by reason of climate, situation or condition, unfit for the residence of labourers, or of any particular class of labourers, he shall give notice, in writing, of his opinion to the District Magistrate, who shall forthwith, by order in writing, summon a Committee to inquire into the matter.

(2) The District Magistrate may also of his own motion summon a Committee, where, either from his own observation or upon the report of an Inspector, Magistrate or medical officer, he is of opinion that an estate or portion of an estate is, for any of the reasons aforesaid, unfit for the residence of labourers or of any particular class of labourers.

(3) Every Committee summoned under this section shall consist of—

- (a) the District Magistrate ;
- (b) the Inspector ;
- (c) the civil medical officer of the district ; and
- (d) one or more employers of labourers :

(4) Provided that, if the District Magistrate is unable to procure the service on the Committee of any employer of labourers, he may, with the previous sanction of the Commissioner of the division, appoint one or more persons qualified to serve on the Committee.

Inquiry by  
Committee  
by order of  
Local  
Government.

138. Where it appears to the Local Government, upon the report of an Inspector, Magistrate or medical officer,—

- (a) that an estate or portion of an estate is, for any of the reasons given in section 137, unfit for the residence of labourers or of any particular class of labourers ; or
- (b) that the percentage of mortality of labourers or of any particular class of labourers employed on an estate or on portion of an estate is such as would justify the institution of an inquiry by a medical officer under section 142,

the Local Government may direct the District Magistrate to summon a Committee under section 137 ; and the District Magistrate shall forthwith proceed to summon a Committee accordingly.

139. Every Committee summoned under section 137 or section 138 shall, as soon as may be, inquire into the healthiness of the estate or portion to which the order appointing it relates, and shall hear and record such information on the subject as the owner of the estate or portion, or the employer in charge thereof, or the Inspector, may desire to place before it.

140. (1) Where the Committee, or a majority thereof, is of opinion that the estate or portion, or any part of the estate or portion, is unfit for the residence of labourers generally, or of any particular class of labourers, the Committee shall record a finding to that effect.

Proceedings  
of Com-  
mittee.

Finding of  
Committee,  
and conse-  
quences.

(2) Where a finding has been recorded under sub-section (1), no labourer or no labourer of the particular class to which the finding relates, as the case may be, shall be bound by any labour-contract to labour on the estate or portion, or part of the estate or portion, as the case may be, which is found unfit for the residence of such labourers.

(3) Where a labourer is released under sub-section (2) from the performance of his labour-contract to labour on any estate, he shall be bound to labour on any other estate belonging to the same owner or in charge of the same employer and situate in the same labour-district; or, where the finding relates only to a portion of an estate, on any other portion of the same estate. Where the finding relates to the whole of any estate and the owner has no other estate or the employer has charge of no other estate in the same labour-district on which the labourer may be employed, the Inspector shall cancel the labour-contract of the labourer, and shall thereupon make an endorsement that it has been cancelled on the labourer's copy of the contract, or, if that copy is not forthcoming, shall give to the labourer a certificate to the like effect.

141. The Local Government may call for the proceedings of any Committees summoned under section 137 or section 139, and, if the finding of the Committee is not unanimous, the Local Government may record any finding thereon which the Committee was competent to record, and the finding so recorded by it shall have the same effect as the finding of a Committee under section 140.

Power for  
Local Gov-  
ernment to  
pass orders  
on proceed-  
ings of Com-  
mittees.

142. Where it appears to the Local Government or to the District Magistrate that the number of labourers employed on an estate who have died thereon, or on any portion thereof, during the last preceding twelve months or that the average annual number of labourers employed on an estate who have died there or on any portion thereof, during the last preceding three years, bears a larger proportion to the whole number of labourers employed thereon during such period of twelve months or three years, as the case may be, than seven per cent., the Local Government, or the District

Excessive  
mortality on  
estates.

Magistrate, may depute the civil medical officer of the district or any other qualified medical officer to inquire into and report on the following matters, namely,—

- (a) the cause or causes of the mortality;
- (b) the want (if any) of due care or precaution, and of adoption of proper and available sanitary measures on the part of the owner of the estate or portion thereof, or of the employer in charge of the estate or portion, causing or contributing to the mortality;
- (c) the fitness or otherwise of the estate or portion for the residence of labourers;

Provided that, when the mortality among any particular class of labourers employed on an estate or any specified portion of an estate exceeds the percentage specified in this section, the Local Government or the District Magistrate may direct an inquiry under this section limited to that particular class of labourers.

Medical  
officer to  
report.

143. The medical officer deputed under section 142 shall, as soon as may be, inquire into the matters referred to therein and shall hear and record such information relating to those matters as the owner of the estate or portion, or the employer in charge of the same, or the Inspector, may place before him, and shall visit and inspect the estate or portion, and shall make a report expressing the reasons for his opinion, and transmit the same to the Local Government together with the information so recorded and the notes of his inspection of the estate or portion, and the Local Government shall cause the employer to be furnished with a certified copy of such report.

Power for  
Local Gov-  
ernment to  
declare estate  
unfit for  
residence.

144. Where the Local Government, after perusal and consideration of the said report, information and notes, is of opinion that the mortality was caused by the want, on the part of the owner of the estate or portion, or the employer in charge of the same, of due care or precaution or of the adoption of proper and available sanitary measures, or that the estate or portion is unfit for the residence of labourers or of any particular class of labourers, it may make a declaration in writing to that effect, and the declaration so made shall have the same effect as the finding of a Committee under section 140.

Power for  
Inspector to  
certify fitness  
of estate or  
portion found  
or declared  
to be unfit.

145. (1) Where it appears to the Inspector that any estate or smaller area, which has been found, or declared under any of the foregoing provisions, to be unfit for the residence of labourers or of any particular class of labourers, has become fit for the residence of labourers or of that class of labourers, as the case may be, he shall, with the previous sanction of the District Magistrate of the district in which the estate or area is situate, give a certificate to that effect signed by him.

On the grant of a certificate under sub-section (1), all such labourers as are mentioned or referred to in section 140, sub-section (3), whose contract have not been cancelled by the Inspector under that section, shall again be bound to labour on the estate or area, as the case may be, to which the certificate relates for the unexpired periods (if any) of their respective contracts.

*Complaints made by Labourers.*

146. Where a labourer states to his employer, or any person acting on behalf of his employer, that he desires to make a complaint to the Inspector or to a Magistrate of personal ill-usage or breach, on the part of his employer or such person as aforesaid, of any of the provisions of this Act or of any rule thereunder, the person to whom the statement is made shall forthwith send the labourer to the Inspector or Magistrate within the local limits of whose jurisdiction the estate wherein he is employed is situate :

Labourer wishing to complain of personal ill-usage or breach of Act to be sent by employer to Inspector or Magistrate.

Provided that, where more than ten labourers at any one time so state their desire to make such a complaint, the person to whom the statement is made may, instead of sending them to such Inspector or Magistrate as aforesaid, give the Inspector or Magistrate notice, in writing, of their complaint.

147. (1) Where a complaint is made to an Inspector or Magistrate under section 146, or where an Inspector or a Magistrate receives, under that section, notice in writing of a complaint, or where an Inspector or a Magistrate has other reasonable grounds for believing that an employer, or person acting on his behalf, has personally ill-used, or committed any such breach as is mentioned in section 146 in respect of, a labourer, the Inspector or Magistrate shall, as soon as may be, proceed to some place, not more than ten miles from the principal place of business of the employer, situate within the local limits of his jurisdiction, and inquire into the matter complained of :

Inspector or Magistrate how to proceed in case of complaint.

Provided that, if the place in which an Inspector or Magistrate has reasonable grounds for believing that the ill-usage or breach has been committed is situate beyond the local limits of his jurisdiction, he shall, instead of inquiring into the matter himself, forthwith send information thereof in writing to the Inspector or Magistrate within the local limits of whose jurisdiction the ill-usage or breach has been committed.

(2) For the purposes of every inquiry made under sub-section (1), the Inspector or Magistrate may summon and examine any person as a witness.

148. (1) Where, upon an inquiry made under section 147 on the complaint of a labourer, the Inspector or Magistrate is of opinion that the complaint is untrue or frivolous or vexatious, he shall dismiss the complaint ; and in that event shall endorse on the employer's copy of the complainant's labour-

Untrue or frivolous complaints.

contract the number of days during which the complainant has been absent from work in consequence of the inquiry, and the number of days so endorsed shall be added to the period for which the complainant contracted to labour.

(2) Every endorsement made under sub-section (1) shall be conclusive evidence that the complainant has absented himself from his labour voluntarily and without reasonable cause during the number of days so endorsed.

Award of  
compensation  
to employer.

149. (1) Where a complaint is dismissed under section 148, the Inspector or Magistrate may award to the employer any reasonable compensation on account of the expense incurred by him in connection with the complaint, and shall endorse the amount of the compensation so awarded on the complainant's copy of the labour-contract.

(2) The complainant shall be bound to pay the amount awarded under sub-section (1); and, in default of payment, his labour-contract shall not be deemed to have determined until he has worked off the amount at the rate of one day's labour for each four annas of the same.

Complaints  
disclosing  
grounds for  
further  
proceedings.

150. (1) Where, upon an inquiry made under section 147 by a Magistrate or by an Inspector who is a Magistrate, the Magistrate or Inspector is of opinion that there is sufficient ground for proceeding with the case, he shall dispose of the same according to law.

(2) Where the Inspector is not a Magistrate and is of such opinion as aforesaid, he shall without delay send the complainant and his witnesses (if any) to the nearest Magistrate, who shall thereupon dispose of the case according to law.

Recovery  
of arrears of  
wages and  
compensation.

151. (1) Where, upon the complaint of a labourer, it is proved to the satisfaction of a Magistrate that the wages of the labourer are in arrear for two months after the first day of the month succeeding the month in which they were earned, or where it is proved to the satisfaction of a Magistrate that the wages of a person whose labour-contract has determined have been withheld for any period after determination, the Magistrate may award to such labourer or person as aforesaid the amount which appears to be then due to him, and also, by way of compensation, such further sum, not exceeding that amount, as to the Magistrate seems just.

(2) On the failure of an employer to pay any amount awarded under sub-section (1), the Magistrate may recover the same from the employer and pay it to the labourer or other person concerned.

Power to  
cancel  
contract on  
conviction of  
employer or

152. (1) Where it is proved to the satisfaction of a Magistrate—

(a) that an employer, or any person placed by an employer in authority over a labourer, has been convicted of any offence causing injury to the person or loss or damage to the property of the labourer,



of 1898.

and, under the <sup>1</sup>Code of Criminal Procedure, 1898, triable exclusively by the Court of Session; or

accumulation  
of arrears of  
wages.

(b) that an employer or any person placed by an employer in authority over a labourer has been twice convicted of any such offence as aforesaid against the labourer and under the said Code triable by a Magistrate; or

(c) that the wages of a labourer are in arrear to an amount exceeding the whole of his wages for four months; or

(d) that a labourer has been compelled by his employer or by any person placed by his employer in authority over him to perform any labour while he was unfit for it, or has been subjected to ill-usage by his employer or any such person as aforesaid;

the Magistrate may, if he thinks fit, on the application of the labourer aggrieved, cancel the labour-contract of the labourer and award to him compensation not exceeding thirty rupees.

(2) Every cancellation under sub-section (1) shall be certified by the Magistrate on the back of the labourer's copy of the labour-contract, or, if that copy is not forthcoming, by writing under the Magistrate's hand delivered to the labourer.

153. (1) Where it appears to the Local Government, that the condition of the labourers on an estate, or of any class or any considerable number of them is unsatisfactory owing to the insufficiency of their earnings to maintain them in health and comfort, the Local Government, after such inquiry as it thinks necessary, may direct that the labour-contracts of all such labourers be cancelled.

Power to  
Local  
Government  
to cancel  
contracts of  
labourers  
whose  
condition is  
unsatisfactory  
owing to  
insufficiency  
of earnings.

(2) No labour-contract shall be cancelled under this section until the employer has been given an opportunity for showing cause why it should not be cancelled.

154. Where the labour-contract of a labourer is or has been cancelled or has determined under section 119, section 120, section 131 or section 152, the Inspector or Magistrate, as the case may be, in his discretion and on the application of the labourer concerned cancel the labour-contract of any labourer employed on any estate belonging to the same employer, being the wife, husband, father, mother, son and daughter of the labourer whose labour-contract is or has been so cancelled or has so determined.

Power to  
cancel  
contract  
of labourer  
related to  
labourer  
whose con-  
tract is  
cancelled or  
determined.

#### *Determination of Labour-contracts.*

155. (1) Whenever a labour-contract determines, the employer shall endorse on the labourer's copy of the contract the fact of determination, or if that copy is not forthcoming, shall give to the labourer a certificate to the

Endorsement  
of deter-  
mination on  
labour-  
contract.

like effect; and where the employer refuses or neglects to do so, the Inspector may, on application by the labourer, make such endorsement or give such certificate as aforesaid.

(2) The employer shall give to the Inspector notice in writing of such determination as aforesaid within one month after the date thereof.

Power to  
redeem  
labour-  
contract.

156. (1) Where a labourer is able and desirous to redeem the unexpired term of his labour-contract or the labour-contract of any member of his family, by payment of a sum equivalent to the value of the unexpired term, the labourer may require his employer to take him, or allow him to go, before the Inspector within the local limits of whose jurisdiction he is employed; and on his depositing such sum as aforesaid with the Inspector, the Inspector shall give notice to the employer to show cause within one week why the labourer should not be released from his contract.

(2) If no sufficient cause is shown as aforesaid, the Inspector shall require the labourer's copy of the contract to be produced, and on production thereof shall endorse thereon a certificate that he has been released under this section from his contract, or, if that copy is not forthcoming, shall deliver to the labourer a certificate under his hand to the like effect; and shall, in either case, hold the sum so deposited to the credit of the employer of the labourer.

(3) The value of the unexpired term of a labour-contract shall, for the purposes of this section, be deemed to be the aggregate amount of one rupee for every month of the unexpired portion of the first year, of three rupees for every such month of the second year and of five rupees for every such month of the third and fourth years of the original term of the contract:

Provided that, if a person who has completed four years' service under a labour-contract enters into a new labour-contract for one year, he shall not be entitled to redeem the unexpired portion of such new labour-contract unless on the payment of two rupees for each month of the said unexpired portion.

Power to  
equalize  
terms of  
contract in  
case of  
husband and  
wife.

157. (1) Where the labour-contract of a labourer determines at a time different from that of any other labourer who is the wife or husband of that labourer, the Inspector or Magistrate may, on the joint application of both labourers, equalize the terms of their respective contracts, and may, for this purpose, add to the term of the contract which expires first, and deduct from the term of the contract which expires last, in such proportions as may appear to him to be equitable.

(2) Every addition or deduction from the term of any labour-contract made under sub-section (1) shall be certified by the Inspector or Magistrate on the back of both the employer's and the labourer's copies of the contract or, if those copies are not forthcoming, by writing under the Inspector's or Magistrate's hand, copies of which shall be delivered to the employer and the labourer.

*Repatriation of Labourers and others.*

158. (1) Where any labourer, not being a native of the labour-districts, whose labour-contract has determined under section 131, desires to be sent back to his native district, the Inspector may, instead of awarding a sum as receivable by the labourer from his employer, as provided by that section, order the employer to deposit such amount, whether in excess of the three months' wages awardable under that section or otherwise, as shall, in the Inspector's opinion, be sufficient to cover the entire expenses of sending the labourer back to his native district. The amount shall be deposited by the employer in the Inspector's office and shall be expended by the Inspector in sending the labourer back to his native district.

Repatriation of labourer whose labour-contract has determined under section 131.

(2) On the failure for the space of twenty-four hours of an employer to comply with an order made under sub-section (1), the Inspector may expend the amount specified in the order, and may recover the same from the employer of the labourer concerned.

159. Where any person, being a native of India but not being a labourer, who has emigrated from his native district to a labour-district for the purpose of labouring for hire in any estate situate therein, or being a dependant of any person who has so emigrated, has no means of subsistence, and is, in the opinion of the Inspector or Magistrate, permanently incapacitated from earning his livelihood in a labour-district, the Inspector or Magistrate may, on the application of such person, send him back, together with his dependants (if any), to his native district, and may, subject to the control of the Local Government, charge the expenses incurred in so doing to the Labour Transport Fund constituted under section 218.

Repatriation of persons emigrating not under labour-contract who are physically incapacitated.

160. (1) Subject to any orders which the Local Government may make in this behalf, the Inspector or Magistrate may, if he thinks fit, detain and may send back to his native district any labourer, together with his dependants (if any), whose contract has been cancelled under section 119 or section 120 on the ground of coercion, undue influence, fraud or misrepresentation, or of any irregularity in connection with his recruitment or the execution of his contract.

Repatriation of labourers wrongfully recruited.

(2) Any expenditure incurred under sub-section (1) may be recovered from the employer on whose estate the labourer concerned was under contract to labour.

161. (1) Where it appears to the Inspector or Magistrate, on complaint made before him or otherwise, that there is reason to suppose that any native of India, not being a labourer, has been induced by any coercion, undue influence, fraud or misrepresentation to emigrate to a labour-district, the Inspector or Magistrate shall call upon the employer on whose behalf the

Repatriation of persons not under labour-contract wrongfully recruited.

person was made or induced to emigrate, or to whose estate he is being or has been conveyed or, if the employer cannot be communicated with without undue delay, upon his agent or any one who is accompanying or conveying the person or has forwarded or otherwise assisted him to emigrate to any labour-district or estate, to appear before the Inspector or Magistrate and show cause why the person should not be sent back to his native district.

(2) Where the Inspector or Magistrate is of opinion, after such inquiry as he thinks sufficient, that such person as aforesaid was engaged or compelled or induced to emigrate by any such coercion, undue influence, fraud or misrepresentation as would justify his being sent back to his native district, the Inspector or Magistrate shall record a finding to that effect and shall, if necessary, detain the person and shall send him, if he so desires, together with any other persons dependent on him, back to his native district.

(3) Subject to any orders which the Local Government may make in this behalf, any expenditure incurred under this section may be recovered from the employer on whose behalf the person concerned was induced to emigrate or to whose estate he was being or had been conveyed, or, if the employer is not known, or if there is no employer, the person who is accompanying or conveying the person concerned or has forwarded or otherwise assisted him to emigrate to any labour-district or estate.

Arrangements may be made for escorting persons ordered to be repatriated.

162 (1) Where a labourer or other person is sent back to his native district under section 158, 160 or 161, the Inspector or Magistrate may provide an escort or make such other arrangements as he may think necessary for ensuring that the labourer or person is actually conveyed to his native district.

(2) Any expenditure incurred under sub-section (1) may be recovered as part of the amount expended in sending the labourer or other person back to his native district.

## CHAPTER VIII.

### RULES.

General power for the Local Government to make rules.

163. (1) In addition to the powers hereinbefore conferred, the Local Government may make<sup>1</sup> rules to carry out any of the purposes and objects of this Act in the Province.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

(a) define and regulate the powers and duties of the several officers appointed by it under this Act;

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<sup>1</sup> For Rules made by the Chief Commissioner under this section, see Central Provinces Local Rules and Orders.

- (b) prescribe what returns and reports shall be made under this Act by any such officers as aforesaid or by any <sup>1</sup> \* \* \* local agents within the Province and the form in which they shall be respectively so made;
- (c) prescribe the forms of all registers, licenses, certificates, permits and notices required under this Act with respect to the Province;
- (d) prescribe the fees to be paid for any license granted under this Act by any officer appointed by it and for the registration of labourers or their dependants in any district in the Province;
- (e) prescribe the particulars to be registered by a registering-officer in respect of each person who is brought before him in any district in the Province for registration as a labourer or dependant;
- (f) <sup>2</sup> \* \* \*
- (g) provide for the accommodation, food, clothing and medical treatment of all labourers and their dependants detained on account of sickness by order of a Magistrate at any place within any district in the Province;
- (h) prescribe the conditions upon which any officer appointed by it may grant licenses to masters of vessels carrying passengers to any labour-district; provide for the ventilation, cleanliness and water-supply of such vessels in respect of which licenses are granted hereunder by any such officer; and prescribe the lists, returns and reports to be kept and submitted by the masters of such vessels;
- (i) prescribe the description, quantity and quality of provisions, medical drugs and other stores to be taken on board such vessels carrying labourers when such vessels are within the Province and the daily allowance to be issued to each labourer and dependant during the journey through the same; prescribe the number of officers, cooks and other servants to be carried on board such vessels; and provide generally for the accommodation of labourers and their dependants on such vessels;
- (j) provide for the detention and inspection of such vessels and of all the passengers, being natives of India, carried in such vessels, while in transit through the Province;
- (k) declare the routes through the Province by which labourers, emigrants under Chapter V and dependants shall travel to the labour-districts;

<sup>1</sup> The words "contractors or" in clause (b) were repealed by s. 7 and Sch. of the Assam Labour and Emigration (Amendment) Act, 1915 (VIII of 1915) *infra*, p. 322.

<sup>2</sup> Clause (f) was repealed by *ibid.*

- (l) prescribe the clothing to be supplied to labourers, emigrants under Chapter V and dependants while proceeding to the labour-districts through the Province ;
- (m) require dépôts and rest-houses to be provided by and at the cost of employers, <sup>1</sup>\* or agents for the accommodation of labourers, emigrants under Chapter V and dependants on any prescribed route, and provide for the sanitation and superintendence of such dépôts and rest-houses ;
- (n) prescribe the mode and the numerical strength of the parties in which labourers, emigrants under Chapter V and dependants are to travel, the arrangements to be made by and at the cost of employers, <sup>1</sup>\* or agents for facilitating the journey of labourers, emigrants under Chapter V and dependants, the length of daily marches by road, and the provision to be made by and at the cost of employers, <sup>1</sup>\* or agents for the carriage of labourers, emigrants under Chapter V and dependants when suffering from sickness ;
- (o) regulate the food to be supplied by and at the cost of employers, <sup>1</sup>\* or agents to labourers, emigrants under Chapter V and dependants, and the provision to be made for the proper cooking of such food ;
- (p) regulate the water-supply to be maintained by and at the cost of employers, <sup>1</sup>\* or agents for the use of labourers, emigrants under Chapter V and dependants ;
- (q) require suitable hospital-accommodation, medical treatment and maintenance to be provided by and at the cost of employers, <sup>1</sup>\*, or agents for labourers, emigrants under Chapter V or dependants when suffering from sickness on their journey to a labour-district ;
- (r) regulate the arrangements to be made by and at the cost of employers, <sup>1</sup>\* or agents in case of the death of any labourer, emigrant under Chapter V or dependant during the journey to a labour-district ;
- (s) prescribe the house-accommodation, water-supply, sanitary arrangements and amount and kind of food-grains to be provided by employers for their labourers, and regulate the rations to be supplied to labourers under this Act in the labour-districts in the Province ; and
- (t) provide for the hospital-accommodation and medical treatment of

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<sup>1</sup> The word "contractors" in clauses (m), (n), (o), (p), (q) and (r) was repealed by s. 7 and Sch. of the Assam Labour and Emigration (Amendment) Act, 1915 (VIII of 1915), *infra*.

labourers in such labour-districts, and prescribe the nature, quality and quantity of medical drugs and other stores to be provided for such labourers.

(3) Where an employer, <sup>1</sup> \* agent or other person fails to perform any act which he is by any rule made under sub-section (2) required to perform the Local Government may cause the act to be performed and the cost may be recovered from the employer, <sup>1</sup> \* or agent, as the case may be.

(4) In making any rule under this Act the Local Government may direct that every breach thereof shall be punishable with fine not exceeding in any case five hundred rupees.

(5) All rules made by the Local Government under this Act shall be published in the local official Gazette, and, on such publication, shall have effect as if enacted by this Act.

## CHAPTER IX.

### PENALTIES AND PROCEDURE.

164. Whoever knowingly recruits, engages, induces or assists, or attempts to recruit, engage, induce or assist, any person to emigrate in contravention of any of the provisions of this Act or of any notification for the time being in force thereunder, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Recruitment, etc., in contravention of Act or notification.

165. [*Wulful misdescription by recruiter.*] Rep. by Act VIII of 1915.

166. [*Recruiter removing, etc., unregistered person.*] Rep. by Act VIII of 1915.

167. [*Recruiter not supplying proper food, etc.*] Rep. Act VIII of 1915.

168. [*Labourer refusing without reasonable cause to execute contract at depot.*] Rep. by Act VIII of 1915.

169. (1) Any labourer registered under section 69 who, without reasonable cause, refuses or neglects to execute, in accordance with the provisions of section 72, a labour-contract in conformity with the terms made known to him when he was registered, shall be punishable with fine which may extend to twenty rupees or to the amount of the expense reasonably incurred by the garden-sardar in procuring his registration, whichever amount is least.

Labourer refusing to execute contract with garden-sardar.

(2) Every fine levied under sub-section (1) shall be paid to the garden-sardar by whom such expense as aforesaid was incurred.

170. Whoever, being a garden-sardar holding a certificate under Chapter IV,—

Garden-sardar failing to report himself, etc.

(a) fails, within fourteen days after his arrival in the local area within which he is authorized to enter into contracts under this Act, to

<sup>1</sup> The word "contractor" in s. 168 (3) was repealed by s. 7 and Sch. of the Assam Labour and Emigration (Amendment) Act, 1915 (VIII of 1915), *infra*.

report himself to the local agent (if any), specified in his certificate; or

- (b) fails, without sufficient cause, to return to his employer within the time specified in his certificate; or
- (c) fails to account for the money advanced to him by his employer for the purpose of engaging labourers;

shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both; and may, if a labourer, under a labour-contract, on the application of his employer or of a person acting on behalf of the employer, be sent back or made over to his employer for the purpose of completing his term of service.

Garden-sardar, etc., abandoning labourers, etc.

171. Whoever, being a garden-sardar holding a certificate under Chapter IV or a person appointed under <sup>1</sup> \* \* \* section 76 to accompany labourers to a labour-district,—

- (a) wilfully abandons any labourer or his dependant on the way to the labour-district; or
- (b) removes or attempts to remove any person to a labour-district before he has executed a labour-contract in accordance as with section 72; or
- (c) induces or attempts to induce any person to go to a labour-district or to leave the local area specified in the certificate of the garden-sardar before he has executed a labour-contract as aforesaid or aids or attempts to aid him in proceeding to a labour-district or in leaving any such local area as aforesaid before he has executed such a labour-contract;

shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both.

Garden-sardar making over labourers to unauthorised persons, etc.

<sup>2</sup> [172. (1) Whoever, being a garden-sardar holding a certificate under Chapter IV,—

- (a) makes over to the garden-sardar or local agent of any employer other than the employer by whom his certificate was granted, or, without authority from his employer, to any other person, any person whom he has engaged or intends to engage as a labourer or whom he has assisted or intends to assist to emigrate under Chapter IV, as modified by any notification issued under section 91; or

<sup>1</sup> The words and figures "section 55 or" were repealed by S. 7 and Sch. of the Assam Labour and Emigration (Amendment) Act, 1915 (VIII of 1915), *infra*.

<sup>2</sup> This section was substituted for the original s. 172 by s. 7 (2), *ibid*.



(b) places any such person as aforesaid in a place of accommodation used in connection with the unlawful recruitment or engagement of labourers ; or

(c) allows any person unlawfully recruited or engaged as a labourer to share the accommodation provided by him under section 62 ;

shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both, and his certificate may be impounded by the convicting Magistrate.

(2) Any Magistrate impounding a certificate under this section shall send it for cancellation to the Magistrate by whom it was countersigned.]

172. Any garden-sardar holding a certificate under Chapter IV or person appointed by him as provided by section 76, who accompanies labourers to the labour-districts and fails to present a way-bill as required by section 79, sub-section (1), or to carry out any of the instructions entered in the way-bill shall be punishable with fine which may extend to twenty rupees.

Garden-sardar failing to comply with instructions endorsed on way-bill.

174. Whoever,—

1 (a) \* \* \* \*

Unlawful engagement of emigrants by garden-sardar.

(b) being a garden-sardar employed under the control of an agency or association to engage persons and assist them to emigrate in accordance with the provisions of section 91, infringes any of the conditions prescribed by or under that section ;

shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees for every such infringement.

175. [*Local agent or selecting agent working with contractor.*] *Repealed by Act VIII of 1915.*

176. (1) Whoever,—

(a) being a master not licensed under section 97, in contravention of section 96, sub-section (1), knowingly receives on board his vessel more than twenty passengers being natives of India ; or,

Master receiving native passengers on board in contravention of Act.

(b) being a master licensed as aforesaid, knowingly receives on board his vessel any such passengers in excess of the number specified in his license or in any order of an Embarkation Agent under section 100 for the purpose of transporting them to a labour-district ;

shall be punishable with fine which may extend to two hundred rupees for each passenger so received.

<sup>1</sup> Clause (a) of s. 174 was repealed by s. 6 (1) of the Assam Labour and Emigration Amendment Act, 1915 (VIII of 1915), *infra*.

(2) Nothing in this section applies to the master of a vessel exempted under section 96, sub-section (2).

Fraudulent alteration of vessel after grant of license.

177. Whoever, being a master licensed under section 98, with intent to defraud, does or suffers to be done any act or thing whereby the state of his vessel is altered, so that the vessel is unfit for the accommodation of the number of passengers specified in his license or in any order made under section 100 by an Embarkation Agent, shall be punishable with fine which may extend to two hundred rupees.

Master not complying with section 102.

178. Whoever, being a master licensed under section 98, proceeds on his voyage with his vessel carrying labourers without having complied with the provisions of section 102, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees.

Master not complying with order under section 104.

179. Whoever, being a master licensed under section 98, fails to comply with an order of an Embarkation Agent made under section 104, shall be punishable with fine which may extend to two hundred rupees for each day during which he fails to comply with the order after the day on which the order was received by him.

Master permitting labourer to leave vessel contrary to section 106. Master wilfully omitting to stop vessel at certain places.

180. Whoever, being a master licensed under section 98, causes or permits a labourer finally to leave his vessel in contravention of the provisions of section 106, shall be punishable with fine which may extend to two hundred rupees for each labourer so leaving his vessel.

181. Whoever, being a master licensed under section 98, wilfully omits to comply with the provisions of section 107, shall be punishable with fine which may extend to two hundred rupees.

Person disobeying Magistrate's order as to communication between vessel and land.

182. Whoever disobeys any order made under section 109 by a Magistrate, shall be punishable with fine which may extend to two hundred rupees.

Master or medical officer disobeying or neglecting to enforce rules.

183. Whoever, being a master licensed under section 98, or a medical officer in charge of a vessel, wilfully omits or neglects to obey or enforce on board of the vessel any provision of this Act or any rule thereunder, shall be punishable with fine which may extend to two hundred rupees.

Labourer deserting, etc., after registration.

184. Whoever, having executed a labour-contract,—

- (a) deserts while on his journey from the district in which he has executed the labour-contract to a labour-district ; or,
- (b) without reasonable cause, refuses or neglects to proceed to the place where he is to labour or to embark in any vessel when called upon to do so by an Embarkation Agent ;

shall be punishable with imprisonment for a term which may extend to one month.

185. Whoever, being an employer, refuses or wilfully omits to keep such registers or to make such periodical returns in writing to the Inspector as may be prescribed by any rule made under this Act, or knowingly keeps an incorrect register or makes an incorrect return, or wilfully omits to prepare, file or affix a schedule as required by section 124, shall be punishable with fine which may extend to two hundred rupees.

Employer refusing or omitting to keep registers, etc.

186. Whoever, being an employer, or acting under the orders or on the behalf of an employer, wilfully obstructs any entry, inspection or inquiry, or omits to comply with any requisition made under section 123, shall for every such offence be punishable with fine which may extend to two hundred rupees.

Employer or other person obstructing inspection under section 123.

187. Whoever, being an employer, or acting under the orders or on the behalf of an employer, compels any labourer to perform any labour knowing that he is at the time unfit to perform such labour, shall be punishable with fine which may extend to two hundred rupees

Employer or other person compelling labourer to perform labour for which he is unfit.

188. Whoever buys any rations which have been furnished under section 134 to a labourer, and whoever, being a labourer, sells any rations so furnished to him, shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees.

Persons buying labourer's rations.

189. (1) Whoever, being an employer, wilfully omits to provide house-accommodation, water-supply, sanitary arrangements, food-grains or rations in accordance with the provisions of this Act or any rule thereunder, shall be punishable with fine which may extend to five hundred rupees; and the convicting Magistrate may order him to comply with such provisions within a reasonable time to be fixed in the order.

Employer omitting to provide house-accommodation, etc.

(2) If the employer wilfully omits to comply with the order within the time so fixed, he shall be punishable with fine which may extend to one hundred rupees for each day during which the omission continues.

(3) If the employer fails to pay the fine imposed under sub-section (2), the person on whose account he has been acting shall be liable to pay the same.

190. Whoever, being an employer, fails to provide such hospital-accommodation for, or to make such provision for the medical care and treatment of labourers, as is required by any rule made under this Act, shall be punishable with fine which may extend to two hundred rupees for each week during which the default continues.

Employer neglecting to provide hospital-accommodation.

191. Where any estate or portion thereof has been found under section 140, or declared under section 144, unfit for the residence of labourers or any class of labourers, as the case may be, every employer who, until a

Employer causing labourer to reside on estate declared

unfit for  
residence.

certificate has been given under section 145, causes or permits such labourers or class of labourers to reside or labour upon the estate or portion shall be punishable with fine which may extend to two hundred rupees.

Unlawful  
absence from  
work.

**192.** (1) Every employer may, on or before the fifteenth day of each month, send to the Inspector a statement in writing containing the names of all or any of his labourers who, voluntarily and without reasonable cause, absented themselves from labour during the preceding month, and specifying the periods of absence. When any employer so sends any statement, he shall, at the same time, notify to each labourer concerned the fact that he has done so.

(2) Every Inspector who receives any statement so sent shall, if the employer so desires, when next visiting the estate on which the labourers to whom the statement relates are employed, inquire into each case of absence in the presence of the labourer concerned, and, if satisfied that the labourer has voluntarily and without reasonable cause absented himself, shall, unless the labourer consents to forfeit to his employer the sum of four annas for each day of absence, endorse the days of absence on the labour-contract of the labourer, and add them to the term of the contract.

(3) The Inspector may also, at any time other than that of his visit to the estate, on the application of either the employer or the labourer, after due inquiry, endorse the days of absence on, and add them to the term of, the labour-contract :

Provided that an employer who omits to apply for the endorsement of such days on any labourer's labour-contract when the Inspector is actually visiting the estate shall be debarred, in the absence of sufficient reasons to the contrary shown to the satisfaction of the Inspector, from applying afterwards for such endorsement so far as days of absence reported in statements sent to the Inspector previous to the date of his last visit are concerned.

*Explanation.*—Ill-treatment of a labourer by his employer, or failure of the employer to fulfil any condition of the labour-contract binding on the employer, shall be deemed to be reasonable cause within the meaning of this section.

Labourer  
absent  
without  
cause.

**193.** Whoever, being a labourer, voluntarily and without reasonable cause absents himself from his labour for more than seven consecutive days, or for more than seven days in any one month, shall be punishable with imprisonment for a term which may extend to fourteen days ; and, in case the absence has extended to twenty days in any two consecutive months, shall be punishable with imprisonment for a term which may extend to one month.

*Explanation.*—Ill-treatment of a labourer by his employer, or failure of the employer to fulfil any condition of the labour-contract binding on the

employer, shall be deemed to be reasonable cause within the meaning of this section.

194. Every employer may, on or before the fifteenth day of each month, send to the Inspector a statement in writing in such form as the Local Government may prescribe containing the names of all or any of his labourers who have deserted from his service during the preceding month, or who, having deserted at any previous time, have been absent during the preceding month, or who, having deserted during the month or previously, have been arrested or have returned to his service during the preceding month. Statement of deserters.

195 (1) Where any labourer deserts from his employer's service, the employer, or any person authorized by him in this behalf, may, without a warrant and without the assistance of any police-officer, arrest the labourer wherever he may be found: Deserter may be apprehended without warrant.

Provided that, if the labourer is found within five miles of the place where a Magistrate resides or in the service of another employer, he shall not be arrested without warrant.

(2) Every police-officer shall assist in arresting any such labourer if so required by the employer or person authorized by him in this behalf.

(3) Whoever arrests a labourer under this section shall without delay take him to the police-station nearest to the place of the arrest; and if he fails to do so shall be punishable with fine which may extend to two hundred rupees.

196. (1) The police-officer in charge of such station shall, on the appearance of the parties, take down in writing the statements of the labourer arrested and of the person arresting the labourer. Procedure at police-station.

(2) If the labourer admits the contract and does not claim to be forwarded to a Magistrate, the police-officer may permit the person arresting the labourer to convey him to the estate on which he is under contract to labour, and shall then transmit the statements recorded and a report of his proceedings to the Magistrate within the local limits of whose jurisdiction the police-station is situated.

(3) If the labourer does not admit the contract or claims to be forwarded to the Magistrate, or if, for any reason, it appears to the police-officer desirable that he should be so forwarded, the police-officer shall forthwith send the labourer, together with the statements recorded as aforesaid and a report of his proceedings to the Magistrate within the local limits of whose jurisdiction the police-station is situated.

(4) If the estate on which the labourer is under contract to labour is not situate within the local limits of the jurisdiction of the Magistrate referred to in sub-section (2) or sub-section (3), the Magistrate shall forward the statements and report received by him from the police to the Magistrate within the

local limits of whose jurisdiction such estate is situate. He shall also, when the labourer has been sent to him by the police, either forward the labourer to, or take security for his appearance before, such other Magistrate as aforesaid.

(5) On receipt of such statements and report the Magistrate within the local limits of whose jurisdiction the estate is situate may, after making such inquiry as he considers desirable into the case, pass such order in accordance with law as he thinks proper. For the purpose of any such inquiry the Magistrate may, if he thinks fit, in any case, in which the labourer arrested has not been sent to or appeared before him, require the labourer to appear before him.

Procedure  
on complaint  
of desertion.

197. When an employer or a person acting on behalf of an employer complains to a Magistrate that a labourer has deserted from the employer's service, the Magistrate may, without previously examining the complainant, issue a summons for the attendance of the labourer, or a warrant for his arrest and fix a day for hearing the complaint.

Punishment  
for desertion.

198. (1) Whoever, being a labourer, deserts from his employer's service, shall be punishable with imprisonment for a term which may extend to one month or with fine which may extend to twenty rupees, or with both.

(2) For a second conviction for a like offence the offender shall be punishable with imprisonment for a term which may extend to two months, or with fine which may extend to fifty rupees, or with both.

(3) For a third and every subsequent conviction for a like offence the offender shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both.

Compensa-  
tion for  
wrongful  
arrest.

199. (1) Where it appears to a Magistrate trying a labourer for deserting from his employer's service, that such labourer was arrested without sufficient cause, the Magistrate may impose a fine, which may extend to fifty rupees, on the employer or person acting on his behalf by whom or at whose instance the labourer was arrested.

(2) The Magistrate may in his sentence direct that the whole or any part of the fine levied under sub-section (1) be paid by way of compensation to the labourer so arrested.

Cancellation  
of contract  
by desertion.

200. Where a labourer has actually suffered imprisonment for terms amounting in the whole to six months for desertion from his employer's service, the Inspector shall cancel the labour-contract of the labourer, and shall endorse on his copy of the contract a certificate of the cancellation; or, if that copy is not forthcoming, he shall give to the labourer a written certificate to the like effect.

201. Whoever, being a labourer, is guilty of habitual drunkenness, or wilfully disregards any sanitary regulation approved by the Inspector and duly notified for the guidance of the labourers on the estate on which the labourer is employed, shall be punishable with imprisonment for a term which may extend to one week, or with fine which may extend to five rupees.

Penalty for drunkenness or neglect of sanitary regulations.

202. (1) The employer of a labourer sentenced to imprisonment for any offence under this Act, or any person authorized to act in this behalf for the employer, may apply to the Magistrate that the labourer be made over to him for the purpose of completing his labour-contract.

Portion of sentence may be cancelled on application of employer.

(2) On an application being made under sub-section (1), the Magistrate may, if he thinks fit, order that the labourer be made over or forwarded to his employer; and in that case the Magistrate shall cancel the sentence passed on the labourer or any unexpired portion of the same, and shall endorse on his copy of the labour-contract a certificate of the cancellation, or, if that copy is not forthcoming, shall give him a written certificate of the cancellation.

(3) Nothing in this section shall be deemed to affect the provisions of section 200.

203. Every employer who obtains an order of a Magistrate for the making over or forwarding of any labourer shall be liable to defray the expense (if any) incurred in the making over or forwarding of the labourer; and shall before the order is issued, deposit with the Magistrate a sum sufficient in the Magistrate's opinion to defray that expense.

Expense of forwarding labourer to be paid by employer.

204. (1) On the expiry of any sentence of imprisonment passed on a labourer for any offence under this Act, the Magistrate shall, subject to the provisions of section 200, make the labourer over to any person appointed on the part of his employer to take charge of him; and no conviction under this Act or imprisonment thereon shall, save as aforesaid, operate as a release to any labourer from the terms of his labour-contract.

a Conviction not to operate as a release.

(2) Where no person is present on the part of the employer to take charge of the labourer on the expiry of his sentence, the Magistrate shall forward the labourer to the principal place of business of his employer situate within the local limits of the Magistrate's jurisdiction.

(3) Any expenditure incurred under sub-section (2) may be recovered from the employer of the labourer concerned.

205. (1) Where a labourer is sentenced to imprisonment for any offence under this Act other than an offence under section 193 or section 198, the Magistrate shall endorse on the employer's copy of the labour-contract the term for which the labourer is so sentenced.

Endorsement on contract of imprisonment for offence against Act.

(2) When a labourer is convicted of unlawful absence under section 193 or desertion under section 198, the Magistrate shall endorse the period of the labourer's absence or desertion on the employer's copy of the labour-contract.

(3) In a case of desertion falling under sub-section (2) no endorsement shall be made if the labour-contract has been cancelled under section 200, or if more than one year has elapsed from the expiry of the original term of the labour-contract or more than three years have elapsed from the date when the labourer deserted, to the date of his conviction.

(4) The term of imprisonment to which a labourer is sentenced under section 193 or section 198, shall be deducted from the term of service to which he is bound by his original contract or by any endorsement made under sub-section (2).

(5) No endorsement shall be made in a case of desertion under sub-section (2) unless the employer has duly reported the particulars of the desertion as provided in section 194.

Endorsement  
on contract  
of period of  
any other  
imprisonment.

206. Where a labourer is sentenced to imprisonment for any time not exceeding three years for any offence other than an offence under this Act the Court or Magistrate so sentencing him shall, if the employer or a person acting on behalf of the employers so requests, endorse on the employer's copy of the labour-contract the period for which the labourer is sentenced to imprisonment, or, if that period exceeds the unexpired term of the labour-contract on the date of the sentence, so much of that period as is equal to the unexpired term.

Periods  
endorsed  
to be added  
to term of  
contract.

207. The periods endorsed under section 205 or section 206 shall be added to the term for which the labourer contracted to serve; and the labourer shall not be deemed to have performed his labour-contract until he has served for the term specified therein in addition to the periods so endorsed.

Other person  
enticing  
away,  
harbouring  
or employing  
labourer  
under labour-  
contract.

208. (1) Whoever, knowing that a labourer is bound by his labour-contract to labour for any employer, voluntarily entices or attempts to entice the labourer to leave his employer, or harbours or employs any labourer who has, in contravention of the terms of his labour-contract, left his employer, shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

(2) The convicting Magistrate may, in his discretion, award to the employer with whom the labourer has contracted the whole or any part of any fine levied under sub-section (1).

Failure to  
forward  
contract  
under section  
118 or to  
cause  
labourer to  
appear under  
section 120.

209. Whoever, being bound under section 118, sub-section (2), to forward any labour-contract to the Inspector, or under section 120 to cause any labourer to appear before the Inspector or Magistrate, wilfully omits or neglects so to forward the labour-contract to the Inspector at or within the time specified, or to cause the labourer to appear before the Inspector or Magistrate within a reasonable time, shall be punishable with fine which may extend to two hundred rupees.



210. Whoever, being bound by section 146 to send any labourer before, or to give notice of any complaint to, an Inspector or Magistrate, refuses or neglects so to send the labourer or to give the notice, shall be punishable with fine which may extend to two hundred rupees.

Employer or other person neglecting to send labourer before Magistrate as provided by section 146. Employer refusing to endorse labour-contract, etc.

211. Whoever, being an employer,—

- (a) refuses or wilfully neglects to endorse the labourer's copy of his labour-contract as required by section 155; or
  - (b) detains a labourer after the determination of his labour-contract; or
  - (c) fails to give to the Inspector notice in writing of such determination as aforesaid within one month after the date thereof;
- shall be punishable with fine which may extend to two hundred rupees.

212. Whoever, being an employer or a person acting for an employer, refuses or neglects to comply with the request of a labourer made under section 156, shall be punishable with fine which may extend to two hundred rupees.

Employer or other person neglecting to comply with request of labourer wishing to redeem unexpired term.

1860. 213. Whoever abets, within the meaning of the <sup>1</sup> Indian Penal Code, any offence against this Act or any rule hereunder, shall be punishable with the punishment provided for the offence.

Abetment.

214. Whoever commits any offence against this Act or any rule hereunder shall be triable for the offence in any place in which he may be found, as well as in any other place in which he might be tried under any law for the time being in force.

Place of trial for offences.

## CHAPTER X.

### MISCELLANEOUS.

215. Every sum recoverable under this Act from any person may be recovered on application to a Magistrate having jurisdiction where the person is for the time being resident, by the distress and sale of any movable property within the limits of the Magistrate's jurisdiction belonging to that person.

Recovery of sums due under Act.

216. All arrears of wages due under any labour-contract shall be a charge upon the estate upon which the labourer to whom the labour-contract relates has been engaged to labour; or, if he has engaged to labour upon any one of several estates managed by the same employer, shall be a charge upon that estate upon which he for the time being actually labours.

Wages due under labour-contract a charge upon estate.

<sup>1</sup> Genl. Act, Vol. I.

Owner of estate for time being has all rights and remedies in respect of labour-contracts charged on it.

217. (1) Whenever an estate on which any labourer has under this Act contracted to labour is transferred by act of parties or operation of law or devolves, the person to whom it is so transferred or on whom it devolves shall be bound by the labour-contract of the labourer in the same manner and to the same extent as the person by or from whom it is transferred or devolves would have been bound thereby, and shall have the same rights and remedies under it as such person would have had thereunder, if the estate had not been transferred or had not devolved.

(2) No person who has ceased to be the owner of the estate upon which any labourer has under this Act contracted to labour shall be liable in respect of any breach of the labour-contract of the labourer which occurs after he has ceased to be owner.

Application of proceeds of fines, fees and rates.

<sup>1</sup>[218. The proceeds of any fines, fees, and rates under this Act which may be credited to Government shall be expended, in such manner as the Governor General in Council may direct, on paying the salaries and allowances of officers appointed under this Act and their pensionary and leave allowances, on meeting the cost of sending labourers and other persons back to their native districts, and generally on defraying the expenses of carrying out the purposes and objects of this Act and any rules made thereunder, and not otherwise.]

Duty of Assistant Inspector.

219. Every Assistant Inspector shall perform all such duties and exercise all such powers of an Inspector as he is authorised in writing by the Inspector to perform or exercise.

Powers of officers under this Act to be exercisable from time to time.

220. All powers conferred by this Act on any Superintendent, Medical Inspector, Emigration Agent or other officer may be exercised from time to time as occasion requires.

Power to exempt labour-district from Act.

221. The Chief Commissioner of Assam may, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, declare that any labour-district or local area therein shall, on and with effect from a day to be fixed in the notification, cease to be subject to all the provisions or any specified provision of this Act; and from the day so fixed such labour-district or local area as aforesaid shall cease to be subject to the provisions of this Act or to the provision so specified, as the case may be.

Notifications not to affect prior acts, etc.

222. The publication of any notification under this Act shall not affect any act done, offence committed or proceedings commenced before such publication.

Repeal.

223. The enactments mentioned in the second schedule are hereby repealed to the extent specified in the fourth column thereof.

<sup>1</sup> This section was substituted for the original s. 218 by s. 3 of the Assam Labour and Emigration (Amendment) Act, 1908 (XI of 1908), *infra*.

## THE FIRST SCHEDULE.

## FORM OF LABOUR-CONTRACT BETWEEN LABOURER AND EMPLOYER.

*(See section 5.)*

This contract, made under the Assam Labour and Emigration Act, 1901, between *A B* (hereinafter called the labourer) of the one part and\* [*C D*] (representative, local agent or garden-sardar) on behalf of] *E F* (hereinafter called the employer) on the other part, witnesseth that the said \*[representative or local agent or garden-sardar on behalf of the said] employer doth hereby promise the said labourer that if he, the said labourer, do remain and labour† on the  $\frac{X \text{ estate}}{Y \text{ estates}}$  ‡ of his said employer in the labour-district of \_\_\_\_\_ for the term of \_\_\_\_\_ years from the date of the execution of this contract, he, the said employer, will, from the date on which the said labourer commences to labour on the said  $\frac{\text{estate}}{\text{estates}}$ , pay or cause to be paid to the said labourer monthly wages at the rate of Rs. §

for a completed daily task regulated in accordance with the provisions of the said Act,|| and, when such task as aforesaid is not completed, monthly wages calculated at the same rate in proportion to the amount of work actually done, and that during the said period he, the said employer, will supply to the said labourer rice at a price of Rs. \_\_\_\_\_ per maund and will faithfully comply with all rules regarding house-accommodation, medical treatment and supply of food-grains or rations to the said labourer which the Local Government may prescribe; and this contract further witnesseth that the said labourer doth hereby, in consideration of the aforesaid promise, agree so to remain and labour for the employer. In witness whereof the said parties to these presents have hereunto set their hands at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_.

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*(Signature of Labourer and of Employer or of his Representative, Local Agent or Garden-sardar.)*

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\* Parts in brackets to be omitted if the contract is made without the intervention of a representative, local agent or garden-sardar.

† State nature of labour, if the labourer is to be required to work under the ground.

‡ As the case may be.

§ State rates for various periods of contract.

|| [During the first six months of the contract the employer is to pay a full wage for half the daily task, unless an Inspector certifies that the labourer is able to perform a full task.]

## Form of Description of Labourer.

NAME.	Father's name	Age	Sex.	Caste.	RESIDING—			Descriptive marks.
					District.	Thana.	Village	

[Endorsement to be filled up by officer before whom the contract is executed.]

I hereby certify that, before the said A B signed this contract, I personally explained it to him.

Dated at \_\_\_\_\_ } Signed \_\_\_\_\_  
 This day of \_\_\_\_\_ } Superintendent or Registering-officer or Inspector  
 or Magistrate.

[Endorsements on labourer's copy of contract to be filled up when the contract is determined or cancelled.]

I hereby certify that the foregoing contract has been determined by effluxion of time.

Dated at \_\_\_\_\_ } \_\_\_\_\_  
 This day of \_\_\_\_\_ } Signature of Employer or Inspector.

I hereby certify that the foregoing contract has been cancelled under the provisions of section \_\_\_\_\_ of Act VI of 1901.

Dated at \_\_\_\_\_ } \_\_\_\_\_  
 This day of \_\_\_\_\_ } Signature of Inspector or Magistrate.

## THE SECOND SCHEDULE.

## ENACTMENTS REPEALED.

(See section 223.)

Year.	No.	Short title.	Extent of repeal
<i>Acts of the Governor General in Council.</i>			
1882	I	The Assam Labour and Emigration Act, 1882.	The whole.
<sup>1</sup> 1891	XII	The Repealing and Amending Act, 1891.	So much of section 2 and the first schedule as relates to Act I of 1882
1893	VII	The Inland Emigration Act, 1893	The whole.
<sup>1</sup> 1897	V	The Repealing and Amending Act, 1897.	So much of section 2 and of the first and second schedules as relates to Act I of 1882 and Bengal Act I of 1889.
<i>Act of the Lieutenant-Governor of Bengal in Council.</i>			
1889	I	The Inland Emigrants Health Act, 1889.	The whole.

Act No. XI of 1902.<sup>2</sup>

[THE CENTRAL PROVINCES VILLAGE-SANITATION ACT, 1902.]

[24th October 1902.]

## An Act to make further provision for sanitation in villages in the Central Provinces.

WHEREAS it is expedient to make further provision for sanitation in villages in the Central Provinces; It is hereby enacted as follows:—

Short title  
and extent.

1. (1) This Act may be called the Central Provinces Village-sanitation Act, 1902.

(2) It extends to the territories for the time being administered by the Chief Commissioner of the Central Provinces.

<sup>1</sup> General Act, Vol. IV.<sup>2</sup> For Statement of Objects and Reasons, see Gazette of India, 1902, Pt. V, p. 72; for Report of the Select Committee, see *ibid.*, p. 93, and for Proceedings in Council, see *ibid.*, Pt. VI, pp. 167, 180 and 182.

Extension of  
Act to in-  
sanitary  
villages.

2. (1) Where the sanitary condition—

(a) of a village, or

(b) of two or more villages having inhabited sites adjacent to one another,

containing not less than five hundred inhabited houses and not being wholly or partly within the limits of a municipality, is, in the opinion of the Deputy Commissioner of the district in which the village or villages is or are situate, such as to be injurious to the health of the inhabitants, the Deputy Commissioner may, by notice in writing, published in such manner as the Local Government may, by rule,<sup>3</sup> prescribe, declare<sup>1</sup> that the local area concerned is in an insanitary state.

(2) After the publication of a notice under sub-section (1) the Local Government may,—

(a) on the application of a mukaddam and ten or more other inhabitants of the local area, or,

(b) where no such application is made within three months after the date of the publication of the notice, on the application of the Deputy Commissioner,

by notification in the local official Gazette, extend<sup>2</sup> to the local area the provisions of this Act with effect from such date as may be specified in the notification.

Formation  
of village  
panchayat.

3. In every local area to which this Act is extended by notification under section 2 a panchayat shall be formed, consisting of the mukaddam of each village and such number, not being less than four, of representatives of the village community or village communities in the local area, as the Local Government may by rule<sup>3</sup> prescribe, who shall be chosen by election from among the inhabitants of the local area.

Powers of  
panchayat.

4. Subject to the approval of the Deputy Commissioner, the panchayat shall determine—

(a) the sum which is annually required for the conservancy of the local area ; and

(b) the sum which may from time to time be required for the improvement of the water-supply or of the village-roads or for any other work of public utility in the local area :

<sup>1</sup> For declarations under s. 2 (1) (b), see Central Provinces Local Rules and Orders.

<sup>2</sup> For notifications under s. 2 (2) extending the Act to certain local areas, see *ibid.*

<sup>3</sup> See footnote to s. 7, *infra*.

Provided that, where arrangements can be made for the maintenance of a staff of scavengers by the direct payment to them of fees by the inhabitants of, or persons trading in a bazar in, the local area, the cost of such staff shall be omitted from consideration in determining the sum annually required for the conservancy of the local area.

5. Subject to the previous sanction of the Local Government, the sums determined in accordance with the provisions of section 4 to be required for the purposes indicated therein may be raised by one or more of the following measures, namely :—

Mode of raising funds.

- (a) an assessment on the houses and lands within the local area with reference to the circumstances of, and property possessed by, the owners or occupiers of such houses or lands ;
- (b) the levy of license-fees on professional weighmen or measurers weighing or measuring for hire goods brought for sale into the local area ;
- (c) the levy of tolls on carts, pack-animals and porters bringing goods for sale into the local area, and on animals brought for sale and actually sold therein ;
- (d) the levy of rents, not exceeding three rupees and four annas per annum in each case, from dealers temporarily occupying open ground in the local area ; or
- (e) the levy of fees, not exceeding two per centum of the sale-price, on the voluntary registration of cattle-sales effected in the local area :

Provided, first, that no tax or charge imposed under this section shall be valid until it has been sanctioned by the Commissioner and that no assessment under clause (a) shall exceed the sum determined under section 4 to be required in respect of the year for which the assessment is to be levied : and

Provided, secondly, that the tolls levied under clause (c) may vary according to the class of the goods brought for sale or of the animals brought for sale and actually sold, but shall in no case exceed four annas per cart-load of goods or one per centum of the sale-price of animals, as the case may be.

6. The rates chargeable by weighmen or measurers licensed under clause (b) of section 5 shall not exceed three-quarters per centum of the sale-price of the goods weighed or measured.

Rates of licensed weighmen or measurers.

7. (7) The Local Government may make rules<sup>1</sup> to carry out the purposes and objects of this Act.

Power of Local Government to make rules.

<sup>1</sup> For rules under s 7 in conjunction with ss. 2 and 3, see Central Provinces Local Rules and Orders.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

- (a) define the limits of local areas for the purposes of this Act ;
- (b) regulate the mode of election and the proceedings of pancháyats, the term of office of the members of a pancháyat, and the circumstances in which, and the authority by whom, such members may be removed ;
- (c) regulate the rates and amounts of any taxes or charges imposed under section 5, their assessment and collection, the exemptions (if any) to be granted, the safe custody and application of the proceeds, and the auditing of the accounts thereof ; and
- (d) regulate conservancy and define and prohibit public nuisances.

(3) In making any rules under this section, the Local Government may direct that the breach of any provision thereof shall be punishable with fine which may extend to ten rupees.

Recovery of  
taxes and  
charges and  
scavengers'  
fees.

8. Arrears of taxes and charges imposed under this Act, and arrears of any fees made directly payable to scavengers under such an arrangement as is contemplated by the proviso to section 4, may, subject to the rules (if any) made under section 7, be realized by the Deputy Commissioner as arrears of land-revenue.

Penalty for  
unlicensed or  
unauthorized  
persons  
charging fees  
in certain  
cases.

9. Where a pancháyat has licensed persons to measure or weigh for hire goods with reference to clause (b), or has appointed persons to register cattle-sales with reference to clause (c), of section 5, any person who has not been so licensed or appointed and who charges any fees for measuring or weighing goods or for registering cattle-sales, shall be punishable with fine which may extend to twenty rupees, and in the case of a continuing offence with fine which, in addition to such fine as aforesaid, may extend to ten rupees for every day after the first during which such offence continues.

Initiation of  
prosecutions.

10. A Court shall not take cognizance of an offence punishable under this Act or a rule thereunder except on the complaint of the Deputy Commissioner or of the pancháyat or of some person authorised specially by the Deputy Commissioner or the pancháyat in each case.

Withdrawal  
of Act.

11. The Local Government may direct<sup>1</sup> that the provisions of this Act shall cease to have operation in any local area from a date to be fixed by the Local Government, and may make over any moneys in the hands of the pancháyat to the District Council or Local Board having authority under the

<sup>2</sup>Central Provinces Local Self-government Act, 1883.

I of 1883.

<sup>1</sup> For notifications under s. 11, withdrawing certain local areas from the operation of the Act, *see* Central Provinces Local Rules and Orders.

<sup>2</sup> *Supra*, p. 116.



12. While the provisions of this Act are in force in any local area, the authority of the District Council or Local Board under section 9 of the 1883. <sup>1</sup>Central Provinces Local Self-government Act, 1883, shall be suspended in respect of all matters made over to the management of the pancháyat. Suspension of authority of District Council and Local Board.
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## THE CENTRAL PROVINCES MUNICIPAL ACT, 1903 (XVI OF 1903).

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ACT No. XVI OF 1903.<sup>1</sup>

[THE CENTRAL PROVINCES MUNICIPAL ACT, 1903.]

[4th November, 1903.]

An Act to make better provision for the organization and administration of municipalities in the Central Provinces.

WHEREAS it is expedient to make better provision for the organization and administration of municipalities in the Central Provinces; It is hereby enacted as follows:—

## CHAPTER I.

## PRELIMINARY.

1. (1) This Act may be called the Central Provinces Municipal Act, 1903; and

Short title  
and extent.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1903, Pt. V, p. 158; for Report of the Select Committee, see *ibid.*, p. 479, and for Proceedings in Council, see *ibid.*, Pt. VI, pp. 22, 163 and 178.

The rules and orders made under the Central Provinces Municipal Act, 1889, which is repealed by this Act, are kept in force under s. 173 (2) of this Act and under the provisions of the General Clauses Act, 1897 (X of 1897), until specifically superseded.

(2) It extends to the territories for the time being administered by the Chief Commissioner of the Central Provinces.

Definitions. 2. In this Act, unless there is anything repugnant in the subject or context,—

- (a) “municipality” means a local area declared by or under this Act to be a municipality :
- (b) “committee” means a municipal committee established by or under this Act :
- (c) “street” includes any way, road, lane, square, court, alley, passage or open space, whether a thoroughfare or not, over which the public have a right of way, and also the roadway and footway over any public bridge or causeway :
- (d) “owner,” used with reference to any building or land, includes the person who is receiving the rent of the building or land, whether on his own account or as agent or trustee, or who would so receive the rent if the building or land were let to a tenant :
- (e) “prescribed” means prescribed by rules made by the Local Government under this Act :
- (f) “tax” includes any toll, rate, cess, fee or other impost leviable under this Act : and
- (g) “explosive” and “petroleum” have the meanings assigned to them <sup>IV of 1884</sup> in the <sup>2</sup>Indian Explosives Act, 1884, and the <sup>3</sup>Indian Petro- <sup>VIII of 1899</sup> leum Act, 1899, respectively.

## CHAPTER II.

### CONSTITUTION OF MUNICIPALITIES.

3. The Local Government may, by notification in the local official Gazette and by such other means as it may determine, signify its intention—

- (a) to declare any town, or any group of towns, in the immediate neighbourhood of one another, a municipality under this Act ;

Proposal to create, alter the limits of, or abolish, municipality.

<sup>1</sup> As to “notified areas” see s. 160, *infra*.

<sup>2</sup> General Acts, Vol. III.

<sup>3</sup> General Acts, Vol. V.



(b) to include within a municipality any local area in the vicinity of the same ;

(c) to exclude from a municipality any local area comprised therein ; or

(d) to withdraw the whole area comprised in any municipality from the operation of this Act :

Provided that where any part of a local area affected by any such notification is a military cantonment or part of a military cantonment, such notification shall not be published without the previous consent of the Governor General in Council.

4. Every notification published under section 3 shall define the limits of the local area to which it refers.

(1) Any inhabitant of any part of a local area defined in a notification published under section 3 may, if he objects to anything therein contained, submit his objection in writing to the Local Government within six weeks from the date of the publication of the notification, and the Local Government shall take his objection into consideration.

Contents of notification under section 3. Creation, alteration of limits, or abolition of municipality.

(2) When six weeks from the date of the publication of the notification have expired, the Local Government may, by a further notification in the local official Gazette,—

(a) declare<sup>1</sup> the local area or any specified part thereof to be a municipality under this Act, or

(b) include<sup>1</sup> the local area or any part thereof in the municipality or exclude it therefrom, or

(c) withdraw<sup>2</sup> the whole area comprised in the municipality from the operation of this Act,

as the case may be.

6. When a local area is included in a municipality by a notification published under section 5, sub-section (2), all rules and by-laws made, orders, directions and notices issued, and powers conferred and in force throughout the municipality at the time when the local area is so included, shall apply thereto unless, the Local Government, in and by the notification, otherwise directs.

Effect of including local area in municipality.

7. (1) When a local area is excluded from a municipality by a notification published under section 5, sub-section (2),—

(a) this Act and all rules and by-laws made, orders, directions and notices issued, and powers conferred thereunder shall cease to apply thereto ;

Effect of excluding local area from municipality or withdrawing whole area of municipality from Act.

<sup>1</sup> For notifications under s. 5 (2) (a) and (b) constituting municipalities and defining their limits, see Central Provinces Local Rules and Orders. As to constitution of " local areas," see s. 159, *infra*.

<sup>2</sup> For notifications under s. 5 (2) (c) withdrawing certain areas from the operation of the Act, see *ibid*.

(b) the Local Government shall, after consulting the committee, form a scheme determining what portion of the balance of the municipal school and hospital funds and other property vested in the committee shall vest in His Majesty for the benefit of the inhabitants of the local area, and in what manner the liabilities of the committee shall be apportioned between the committee and the Secretary of State for India in Council; and, on the publication of such scheme in the local official Gazette, such property and liabilities shall vest and be apportioned accordingly.

(2) When the whole area comprised in any municipality is withdrawn from the operation of this Act by a notification published under section 5, sub-section (2), this Act and all rules and by-laws made, orders, directions and notices issued, and powers conferred thereunder, shall cease to apply thereto; and the balance of the municipal fund and all other property at the time of the issue of the notification vested in the committee shall vest in His Majesty, and the liabilities of the committee shall be transferred to the Secretary of State for India in Council.

(3) All property vested in His Majesty under this section shall be applied, under the order of the Local Government, to the discharge of the liabilities imposed on the Secretary of State for India in Council thereby or for the promotion of the safety, health, welfare or convenience of the inhabitants of the area affected.

### CHAPTER III.

#### ORGANIZATION OF COMMITTEES.

##### *Constitution of Committees.*

Number and  
appointment  
of members  
of committee.

8. (1) There shall be established for each municipality a committee having authority over that municipality and consisting of such number of members, not less than five, as may be prescribed.

(2) Such members may be appointed, in the prescribed manner, by nomination or by election, or some by nomination and some by election.

(3) Not less than two-fifths of the members of a committee shall be persons other than salaried officers of the Government.

(4) Every appointment of a member shall be notified in the local official Gazette.

Term of  
office of  
members.

9. (1) Where a member of a committee is appointed by virtue of office, the person for the time being holding the office shall be a member until the Local Government otherwise directs.

(2) Every member of a committee appointed otherwise than by virtue of office shall be a member for the prescribed term, which may be so fixed as to

provide for the retirement of members by rotation, but shall not exceed three years.

(3) An outgoing member shall, if otherwise qualified, be eligible for re-appointment.

(4) Any member of a committee wishing to resign shall forward his written resignation through the president of the committee to the Deputy Commissioner, and he shall be deemed to have vacated his seat when the acceptance of his resignation by the Local Government has been communicated to the committee.

10. Every committee shall be a body corporate by the name of the municipal committee of its municipality, shall have perpetual succession and a common seal, with power to acquire and hold property, both moveable and immoveable, to transfer any property held by it, and to contract and to do all other things necessary for the purposes of its constitution, and may sue and be sued in its corporate name :

Provided that no committee shall transfer any immoveable property except in pursuance of a resolution passed at a special meeting and approved by the Local Government.

11. Every member of a committee shall be deemed to be a municipal commissioner within the meaning of any enactment for the time being in force.

Member of committee to be municipal commissioner.

12. (1) There shall be a president and vice-president of every committee.

(2) The Local Government may appoint any person, whether a member of the committee or not, to be president or vice-president, or may authorize any committee to elect, in the prescribed manner, its president or vice-president, or both.

Appointment of president and vice-president.

(3) The election of a president or vice-president shall not be valid until it has been confirmed by the Local Government and has been notified in the local official Gazette.

(4) A president and vice-president shall hold office for the prescribed term.

(5) Where a person not already a member of the committee is appointed or elected president or vice-president, he shall, notwithstanding anything in the foregoing sections, become a member of the committee by virtue of his appointment or election, and shall continue to be a member so long as he holds office as president or vice-president.

13. The Local Government may, at any time, remove the president, vice-president or any member of a committee—

Removal of president, vice-president and members of committee.

(a) if he refuses to act or becomes incapable of acting, or is declared insolvent, or is convicted of any such offence, or subjected by a

Criminal Court to any such order as implies, in the opinion of the Local Government, a defect of character which unfits him to be the president or vice-president or a member of the committee ;

(b) if he, without an excuse sufficient in the opinion of the Local Government, absents himself for more than three consecutive months from the meetings of the committee or of a sub-committee of which he is a member ; or

(c) if his continuance in office is, in the opinion of the Local Government, undesirable in the interests of the public or of the municipality.

Delegation of powers.

14. The Local Government may, by notification<sup>1</sup> in the local official Gazette, delegate to the Commissioner in respect of any specified municipality or municipalities in his division all or any of the powers and functions of the Local Government in respect of the appointment or resignation of a president, vice-president or any member of a committee.

#### *Conduct of Business.*

Ordinary and special meetings.

15. (1) A meeting of a committee shall be either ordinary or special.

(2) Any business may be transacted at an ordinary meeting unless it is required by or under this Act to be transacted at a special meeting.

Time and place for holding meetings.

16. (1) Every committee shall meet for the transaction of business at least once in every month at such time and place as may, from time to time, be fixed by by-laws made under section 21.

(2) The president or in his absence or during the vacancy of his office, the vice-president may, whenever he thinks fit, and shall on a requisition made in writing by not less than one-fifth of the members of the committee, convene either an ordinary or special meeting at any other time.

Chairman of meeting.

17. (1) At every meeting of a committee the president, if present, shall preside as chairman

(2) If, when any meeting is held, the office of president is vacant or the president is absent from the meeting and the vice-president is present, the vice-president shall preside as chairman.

(3) In any case not provided for by sub-section (1) or sub-section (2), the members present shall elect one of their number to be Chairman of the meeting.

Quorum.

18. (1) The quorum necessary for the transaction of business at a special meeting of a committee shall be one-half of the members of the committee.

(2) The quorum necessary for the transaction of business at an ordinary meeting of a committee shall be such number or proportion of the members

<sup>1</sup> For notification making delegations under s. 14, see the Central Provinces Local Rules and Orders.

of the committee as may, from time to time, be fixed by by-laws made under section 21, but shall be not less than three :

Provided that, if at any ordinary or special meeting of the committee a quorum is not present, the Chairman shall adjourn the meeting to such other day as he thinks fit, and the business which would have been brought before the original meeting, if there had been a quorum present, shall be brought before, and transacted at, the adjourned meeting, whether there is a quorum present thereat or not.

19. Save as otherwise provided by or under this Act, all questions brought before any meeting of a committee shall be decided by a majority of the votes of the members present, and in the case of an equality of votes, the chairman of the meeting shall have a second or casting vote. Vote of majority decisive.

20. (1) Minutes of the proceedings at each meeting of a committee shall be recorded in a book to be kept for the purpose, shall be signed by the chairman of the meeting or of the next ensuing meeting, shall be published in the manner prescribed, and shall, at all reasonable times and without charge, be open to the inspection of any inhabitant of the municipality. Record and publication of proceedings.

(2) A copy of every resolution passed by a committee at a meeting shall within six days from the date of the meeting be forwarded to the Deputy Commissioner.

21. (1) A committee may, from time to time at a special meeting make by-laws,<sup>1</sup> consistent with this Act and the rules thereunder, for regulating— By-laws for conduct of business.

- (a) the time and place of its meeting ;
- (b) the conduct of its business ;
- (c) the quorum necessary for the transaction of business at ordinary meetings ;
- (d) the division of duties among its members, the formation of sub-committees, and the powers to be exercised by sub-committees or by such members as are primarily responsible for the current executive administration, whether presidents, vice-presidents, members of sub-committees or individual members ;
- (e) the duties and salaries of its officers and servants ;
- (f) the persons by whom receipts may be granted on its behalf for money received under this Act ; and
- (g) other similar matters.

(2) No by-law made under this section shall take effect until it has been confirmed by the Local Government.

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<sup>1</sup> For notifications publishing by-laws made under s. 21, see the Central Provinces Local Rules and Orders.

Extraordi-  
nary vice-  
president in  
case of  
emergency.

22. In cases of emergency the president, or in his absence or during the vacancy of his office, a vice-president, may direct the execution of any work or the doing of any act which the committee is empowered to execute or do, and the immediate execution or doing of which is, in his opinion, necessary for the service or safety of the public, and may direct that the expense of executing such work or doing such act shall be paid from the municipal fund:

Provided that—

- (a) he shall not act under this section in contravention of any order of the committee; and
- (b) every direction given under this section shall be reported to the next following meeting of committee.

*Joint Committees.*

Joint com-  
mittees.

23. (1) A committee may, from time to time, concur with any other committee, or with a district council, or with an independent local board, or with a cantonment authority, or with more than one such committee, council, board or authority, in appointing, out of their respective bodies, a joint committee for any purpose in which they are jointly interested, and in appointing a chairman of the joint committee and in delegating to any such joint committee any power which might be exercised by either or any of the committees, councils, boards or authorities, and in framing and modifying regulations as to the proceedings of any such joint committee, and as to the conduct of correspondence relating to the purpose for which the joint committee is appointed.

(2) Where any difference of opinion arises between committees, councils, boards or authorities acting under this section, the decision thereon of the Commissioner if the areas under the committees, councils, boards or authorities are in the same division or of the Local Government if those areas are in different divisions, shall be final.

*Defects in Constitution and Irregularities.*

Vacancies  
and irregu-  
larities not  
to invalidate  
proceedings.

24. Anything done or any proceedings taken under this Act shall not be questioned on account of any vacancy in a committee or joint committee, or on account of any defect or irregularity not affecting the merits of the case.

*Officers and Servants.*

Appointment  
of secretary.

25. (1) Every committee shall, from time to time, at a special meeting and subject to the approval of the Local Government, appoint one or more of its members, or, with the sanction of the Local Government, any other person or persons to be its secretary or secretaries, and may, at a like meeting and subject to the like approval, remove any person so appointed.

(2) A committee may, with the previous sanction of the Local Government, assign to a secretary such salary as the committee thinks fit :

Provided that where a member of the committee is appointed to be secretary, he shall receive no remuneration in respect of his services.

26. Subject to the other provisions of this Act and to the qualifications prescribed in the case of persons appointed to offices requiring professional skill, a committee may employ, in addition to its secretary, such other officers and servants as may be necessary or proper for the efficient execution of its duties, and may assign to such officers and servants such salaries as it thinks fit.

Employment of other officers and servants.

27. (1) If, in the opinion of the Commissioner, the number of persons employed by a committee as officers or servants, or whom the committee propose to employ as such, or the salaries assigned by the committee to those persons or any of them, are excessive, the committee shall, on the requisition of the Commissioner, within such time as may be fixed by the Commissioner in this behalf, reduce the number of those persons or their salaries, as the case may be.

Power to call for reduction of establishment or of cost of establishment and dismissal of unfit persons.

(2) If, in the opinion of the Commissioner, any person employed by a committee as an officer or servant is by reason of bad character, incompetence or idleness, or for any other sufficient reason, not fit to be retained in the service of the committee, the committee shall, on the requisition of the Commissioner, within one month from the date of receipt of such requisition, dispense with the services of such person :

Provided that, before making any such requisition, the Commissioner shall call upon the officer or servant concerned to show cause why such requisition should not be made.

(3) The committee to whom a requisition is made under sub-section (1), and any person whose services are dispensed with in compliance with a requisition under sub-section (2), may appeal to the Local Government whose decision shall be final :

Provided that no person removed in compliance with a requisition made under sub-section (1) shall have any right of appeal.

28. In the case of a Government official a committee may,—

(i) where his services are wholly lent to it, subscribe for his pension or gratuity and leave allowances in accordance with the Civil Service Regulations for the time being in force ; and

(ii) where he devotes only a part of his time to the performance of duties in behalf of the committee, make a contribution on account of his pension or gratuity and leave allowances in such proportion as may be determined by the Government.

Pensions, gratuities and leave allowances of Government officials serving committees.

Leave allow-  
ances, pen-  
sions, gra-  
tuities and  
annuities of  
officers or  
servants  
other than  
Government  
officials.

**29.** In the case of an officer or servant not being a Government official, a committee may—

- (a) grant him leave allowances, and, where his monthly pay is less than ten rupees, a gratuity; and,
- (b) with the general or special sanction of the Local Government, —
  - (i) subscribe on his behalf for pension<sup>1</sup> or gratuity under the Civil Service Regulations for the time being in force; or
  - (ii) purchase for him from the Government or otherwise an annuity on his retirement :

Provided that no leave allowance, pension, gratuity or annuity shall exceed the sum to which, under the Civil Service Regulations for the time being in force, the officer or servant would be entitled if the service had been service under Government.

#### *Contracts.*

Authority  
to contract.

**30.** (1) A committee may delegate to one or more of its members or to a secretary the power of entering on its behalf into any particular contract whereof the value or amount does not exceed two hundred rupees or into any class of such contracts.

(2) A contract whereof the value or amount exceeds two hundred rupees shall not be entered into until it has been sanctioned by the committee at a meeting.

Mode of  
entering  
into con-  
tracts.

**31.** (1) Every contract made by or on behalf of a committee whereof the value or amount exceeds fifty rupees shall be in writing.

(2) Every such contract shall be signed by the president or vice-president and a secretary :

Provided that the committee may delegate to one or more of its members or to a secretary the power of signing any contracts which he or they is or are empowered to enter into under section 30, sub-section (1).

(3) If a contract to which this section applies is entered into otherwise than in conformity therewith, it shall not be binding on the committee.

Penalty  
on member,  
officer or  
servant of  
committee  
being  
interested  
in contract  
made with  
committee.

**32.** (1) If any member, officer or servant of a committee is, otherwise than with the written permission of the Commissioner, directly or indirectly interested in any contract made with the committee, he shall be deemed to have committed an offence under section 68 of the <sup>2</sup> Indian Penal Code.

(2) A person shall not, by reason of being a share-holder in, or member of, any incorporated or registered company, be deemed to be interested in

XLV of  
1860.

<sup>1</sup> For authority under s. 29 (b) (i) to Municipal Committees and Notified Areas (see s. 169) to contribute towards the pensions of permanent employes, see Central Provinces Local Rules and Orders.

<sup>2</sup> General Acts, Vol. I.



any contract entered into between the company and the committee, but he shall not take part in any proceedings of the committee relating to any such contract.

*Privileges and Liabilities.*

33. (1) No suit shall be instituted against a committee or any of its officers or servants or any person acting under its direction for anything done or purporting to be done under this Act, until the expiration of two months next after notice in writing, stating the cause of action, the name and place of abode of the intending plaintiff and the relief which he claims, has been, in the case of a committee, delivered or left at its office, and, in the case of any such officer, servant or person as aforesaid, delivered to him or left at his office or usual place of abode.

Bar of suit  
in absence  
of notice.

(2) Every such suit shall be dismissed unless it is instituted within six months from the date of the accrual of the alleged cause of action and service of such notice as aforesaid is admitted or proved.

(3) Where it is proved to the satisfaction of the Court that before the suit was instituted tender of sufficient amends had been made to the plaintiff, the plaintiff shall not recover his costs nor any relief not included in such tender, and shall defray the costs of the defendant in the suit.

(4) Nothing in this section shall be deemed to apply to any suit of 1877. instituted under section 54 of the <sup>1</sup> Specific Relief Act, 1877.

34. Every person shall be liable for the loss, waste or misapplication of any money or other property belonging to, or under the control of, the committee, if such loss, waste or misapplication is a direct consequence of his neglect or misconduct while a member of the committee, and a suit for compensation for the same may be instituted against him by the committee, with the previous sanction of the Commissioner, or by the Secretary of State for India in Council.

Liability  
of members  
for loss,  
waste or  
misapplica-  
tion.

CHAPTER IV.

TAXATION AND MUNICIPAL FUND.

*Taxation.*

35. Subject to any general rules or special orders which the Governor-General in Council may make in this behalf, a committee may, for the purposes

Taxes which  
may be  
imposed.

<sup>1</sup> General Acts, Vol. II.

of this Act, impose, with the sanction hereinafter specified in each case and in the manner required by section 39, any of the following taxes,<sup>1</sup> namely :—

(a) with the previous sanction of the Local Government,—

- (i) a tax on houses, buildings or lands situate within the limits of the municipality, not exceeding seven and a half per centum of the gross annual letting value of the houses, buildings or lands ;
- (ii) a tax on persons occupying houses, buildings or lands within the limits of the municipality according to their circumstances and property within those limits ;
- (iii) a tax on persons exercising any profession or art, or carrying on any trade or calling, within the limits of the municipality ;
- (iv) a tax on all or any vehicles or animals used for riding, driving, draught or burden, or on dogs, where such vehicles, animals or dogs are kept within the limits of the municipality ;
- (v) a tax on vehicles and animals used as aforesaid entering the limits of the municipality, and on boats moored within those limits ;
- (vi) an octroi on goods or animals brought within the limits of the municipality for consumption or use within those limits ;
- (vii) market-dues on persons using any building, structure, market, bazar or ganj belonging to or under the control of the committee, or exposing goods for sale in any place belonging to or under the control of the Government or the committee ;
- (viii) fees on the registration of cattle sold within the limits of the municipality ;
- (ix) a latrine or conservancy tax upon private latrines or cess-pools or upon premises or compounds cleansed by municipal servants, or a tax for the maintenance of public latrines ; and
- (x) a water-rate where water is supplied by the committees ; and

(b) with the previous sanction of the Local Government and of the Governor-General in Council, any tax<sup>2</sup> not authorized under clause (a).

<sup>1</sup> For notifications imposing taxes in different municipalities under s. 35 (a) and s. 39 (5), and rules for assessment of such taxes, see the Central Provinces Local Rules and Orders.

<sup>2</sup> For terminal tax imposed under ss. 35 (b) and 39 (8) and rules for assessment thereof, see Central Provinces Local Rules and Orders.

36. For the purposes of any tax imposed under section 35, clause (a), sub-head (i), or under clause (b), the annual letting value of any house or building, not erected for letting purposes and not ordinarily let, shall be deemed to be five per centum on the aggregate sum resulting from the addition of—

Determination of gross annual letting value in certain cases.

(a) the estimated present cost of erecting the house or building after deduction of a reasonable amount on account of depreciation (if any), and

(b) the estimated present value of the land valued with the house or building as part of the same premises :

Provided that, in the determination of the annual value, no account shall be taken of any machinery :

Provided also that, where any house or building is occupied in such circumstances as to render a valuation of five per centum unreasonable, the committee may, in its discretion, reduce the percentage accordingly.

37. (1) In any municipality in which any tax is imposed under section 35, clause (a), sub-head (ii), no tax shall be assessed on any person in respect of his occupation of any houses, buildings or lands, the property of His Majesty ; but a rate not exceeding seven and a half per centum may be assessed on the annual value of such houses, buildings or lands, and such rate shall be payable by the Government.

Assessment of Government houses or buildings in certain cases.

(2) For the purposes of sub-section (1), the annual value shall be deemed to be the gross annual rental at which the houses, buildings or lands may be reasonably expected to let :

Provided that, where the actual cost of erecting any such house or building can be ascertained or estimated, the annual value of such house or building shall, in no case, be deemed to exceed an amount which would be equal to seven and a half per centum on such cost, in addition to a reasonable ground-rent for the land on which such house or building has been erected.

38. In assessing the amount of any latrine or conservancy tax upon private latrines or cess-pools or upon premises or compounds cleansed by municipal servants or a water-rate, under section 35, clause (a), sub-head (ix) or sub-head (x), regard shall be had to what is actually expended on the service rendered, or on the water supplied, as the case may be.

Limitation upon taxes in certain cases.

39. (1) A committee may resolve at a special meeting to propose the imposition of any tax for the purposes of this Act.

Procedure in imposing taxes.

(2) Where a resolution has been passed under sub-section (1), the committee shall publish in the prescribed manner, a notice defining the class of

persons or description of property proposed to be taxed, the amount or rate of the tax to be imposed, and the system of assessment to be adopted.

(3) Any inhabitant of the municipality objecting to the proposed tax may, within one month from the publication of the notice, submit his objection in writing to the committee, and the committee shall, at a special meeting, take his objection into consideration.

(4) Where no objection is submitted as aforesaid, or where the objections so submitted, having been considered by the committee, are deemed insufficient, the committee may forward its proposals to the Local Government with the objections (if any) so submitted.

(5) The Local Government may, on receiving the proposals of the committee, sanction the same, or refuse to sanction them, or sanction them subject to such modifications as it may think fit, or return them to the committee for further consideration.

(6) Where the Local Government sanctions any proposals which, under section 3, clause (b), require the further sanction of the Governor General in Council, it shall submit them to the Governor General in Council, with the objections (if any) received through the committee; and the Governor General in Council may sanction them, or refuse to sanction them, or sanction them subject to such modifications as he may think fit, or return them to the Local Government for further consideration.

(7) No modification affecting the substance shall be made under subsection (5) or sub-section (6) unless and until the modification has been accepted by the committee at a special meeting.

(8) Where any proposals for taxation have been sanctioned under subsection (5) or sub-section (6) by the Local Government or by the Local Government and the Governor General in Council, as the case may be, the Local Government may, by notification<sup>1</sup> in the local official Gazette, direct the imposition of the tax as sanctioned from such date as may be specified in the notification, and thereupon the tax shall come into effect as from the date so specified.

Tax not  
invalid for  
defect of  
form.

40. A tax imposed under this Act shall not be invalid for defect of form, and, where any property is described for the purpose of assessing any such tax, it shall be sufficient to describe it so that it shall be generally known and it shall not be necessary to name the owner or occupier.

Power of  
committee  
to abolish  
or reduce  
or exempt  
from tax.

41. A committee, by a resolution passed at a special meeting and confirmed by the Local Government, may abolish or reduce any tax imposed under this Act, or suspend the operation of any tax within any part of the

<sup>1</sup> As to notifications under s. 39(8), see footnotes to ss. 35 (a) and 35 (b), *supra*.

municipality for any specified period, or exempt in whole or in part from the payment of any tax any person or class of persons or any property or description of property.

42. The Local Government may, for reasons to be recorded, exercise the powers conferred on a committee by section 41.

Power of Local Government to abolish or reduce tax.

43. (1) A committee may, by notice, call upon any inhabitant of the municipality to furnish within a reasonable time such information as may be necessary in order to ascertain—

Duty of furnishing true information regarding liability to taxation.

(a) whether such inhabitant is liable to pay any tax imposed under this Act; and

(b) the amount at which he should be assessed.

(2) Where any inhabitant called upon to furnish information in pursuance of sub-section (1) omits to furnish it, or furnishes information which is untrue, and which he knows or believes to be untrue or which he does not believe to be true, he shall be punishable with fine which may extend to one hundred rupees.

44. (1) Arrears of any tax may, on the application of the committee or of some person authorized generally or specially by the committee in this behalf to a Magistrate having jurisdiction within the limits of the municipality, be recovered, with any sum leviable on account of court-fees or the prescribed process-fees, and with interest at the rate of twelve and a half per centum per annum, by distress and sale of any moveable property belonging to the defaulter within the limits of such Magistrate's jurisdiction :

Recovery of taxes.

Provided that no interest shall be so recovered in any case in which the Magistrate, for reasons to be recorded in writing, considers it inexpedient that interest should be charged.

(2) Where the arrears are due in respect of immoveable property, they shall, subject to any claim on behalf of His Majesty, be a first charge on the property, and shall be recoverable, on the application of the committee or of some person authorized generally or specially by the committee in this behalf to the Deputy Commissioner, as if the property were land—assessed to land-revenue and the arrears were a arrear of such revenue due thereon :

Provided that nothing in this sub-section shall be deemed to authorize the arrest of a defaulter.

(3) Where there is no sufficient moveable property belonging to the person from whom any money is claimable on account of any arrears of any tax

<sup>1</sup> Section 44 has been extended to the Cantonment of Jubbulpore under section 25 of the Cantonments Act, 1889 (XIII of 1889), see Central Provinces Gazette, 1908, Pt. I, p. 493.

within the jurisdiction of any Magistrate having jurisdiction within the limits of the municipality, any such Magistrate may, on the application of the committee or of some person authorised generally or specially by the committee in this behalf, grant a certificate of the amount due on account of arrears, with court-fees, process-fees and interest (if any), by the person from whom the money is claimable, and shall forward the certificate so granted to the Magistrate within whose jurisdiction any such property belonging to such person is or is believed to be : and the Magistrate receiving such certificate shall proceed to recover, by distress and sale of any moveable property belonging to the defaulter within the limits of his jurisdiction, the amount certified with any further sum leviable on account of court-fees or process-fees, and shall remit the amount recovered under such certificate to the Magistrate by whom the certificate was granted.

Power to  
charge fees.

45. (1) Where any license is granted by a committee under this Act, or where permission is given by a committee for making any temporary erection or for putting up any projection or for the temporary occupation of any street, the committee may charge a fee for such license or permission.

(2) The committee may also charge such fees as may be fixed by by-laws made under section 105 for the use of any places belonging to, or under the control of, the committee.

Appeals  
against  
taxation.

46. (1) An appeal from the assessment or levy of any tax under this Act shall lie to the Deputy Commissioner or to such other officer as may be empowered by the Local Government in this behalf :

Provided that, where the Deputy Commissioner or such other officer as aforesaid is a member of the committee, the appeal shall lie to the Commissioner.

(2) Where, on the hearing of an appeal under this section, any question as to the liability to, or the principle of assessment of, a tax arises, on which the officer hearing the appeal entertains a reasonable doubt, he may, either of his own motion or on the application of any person interested, draw up a statement of the facts of the case and the point on which the doubt is entertained, and refer the statement with his own opinion on the point for the decision of the Judicial Commissioner.

(3) On a reference being made under sub-section (2), the subsequent proceedings in the case shall be, as nearly as may be, in conformity with the rules relating to references to the High Court contained in Chapter XLVI of the <sup>1</sup> Code of Civil Procedure.

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<sup>1</sup> This reference in s. 46 (3) should now be taken to be made to s. 113 and Order XLVI in Sch. I of the Code of Civil Procedure, 1908 (Act V of 1908), see s. 158 thereof.

(4) In every appeal the cost shall be in the discretion of the officer deciding the appeal.

(5) Costs awarded under this section to the committee shall be recoverable by a committee as though they were arrears of a tax due from the appellant.

(6) Where a committee fails to pay any costs awarded to an appellant within ten days after the date of the order for payment thereof, the officer awarding the costs may order the person having the custody of the balance of the municipal fund to pay the amount.

47. (1) No appeal shall lie in respect of any assessed tax unless it is preferred— Limitation  
of appeal.

(a) within one month after the publication of an assessment-list or notice where such publication is provided for in the system of assessment framed under section 39, sub-section (2) ; or

(b) within one month after the final decision of the committee on any objection received, where an opportunity for submitting objections to the committee is allowed and any objection has been duly submitted.

(2) Except as provided in sub-section (1), no appeal shall lie in respect of any tax, unless the appeal is preferred within one month from the time when the demand for the tax is made.

48. No objection shall be taken to any valuation or assessment, nor shall the liability of any person to be assessed or taxed be questioned, in any other manner or by any other authority than is provided in this Act. Taxation  
not to be  
questioned  
except under  
this Act.

### *Municipal Fund and Property.*

49. There shall be formed for each municipality a municipal fund, and there shall be placed to the credit thereof— Constitution  
of municipal  
fund.

(a) all sums received by or on behalf of the committee ;

(b) all fines recovered from persons convicted of offences committed within the municipality against this Act or any rules or by-laws made thereunder or against section 34 of the <sup>1</sup> Police Act, 1861, or against the <sup>2</sup> Public Gambling Act, 1867 ;

(c) the balance (if any) standing at the commencement of this Act at the credit of the municipal fund under the control of the committee.

<sup>1</sup> 1861.  
of 1867.

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<sup>1</sup> General Acts, Vol. I.

<sup>2</sup> *Supra*, p. 26.

Application  
of fund.

50. (1) The committee shall set apart and apply annually out of the municipal fund—

- (a) first, such sum as may be required for the payment of any amounts falling due on any loan legally contracted by it ;
- (b) secondly, such sum as may be required to meet the charges of its own establishment, including such subscriptions and contributions as are referred to in sections 28 and 29, and such sum as may be required for the maintenance of a police-establishment under Chapter V ;
- (c) thirdly, such sum as may be required to pay the expenses of pauper lunatics sent to public asylums from the municipality, the expenses incurred in auditing the accounts of the committee, and such portion of the cost of the Provincial Departments for education, sanitation, vaccination, medical relief and public works as may be held by the Local Government to be equitably debitable to the committee, in return for services rendered to it by these departments ; and
- (d) fourthly, the cost of the construction and maintenance of buildings for the offices of the committee.

(2) Subject to the charges specified in sub-section (1) and to such priority in respect of the several duties of the committee as may be prescribed, the municipal fund shall be applicable to the payment, in whole or in part, of the charges and expenses incidental to the following matters within the limits of the municipality, and, with the sanction of the Commissioner, to the payment of the like charges and expenses without those limits where such an application of the fund is for the benefit of the inhabitants of the municipality, namely :—

- (a) the construction, maintenance, improvement, cleansing and repair of streets and public bridges, embankments, drains, latrines, cess-pools, tanks and water-courses ;
- (b) the watering and lighting of the streets or any of them ;
- (c) the construction, establishment and maintenance of schools, hospitals and dispensaries, including veterinary dispensaries, and of other institutions for the promotion of education or for the benefit of the public, and of rest-houses, serais, poor-houses, markets, encamping-grounds, recreation-grounds, gardens, parks, pounds and other works of public utility, and the control and administration of public institutions of any of these descriptions ;



- (d) grants-in-aid to schools, hospitals, dispensaries, including veterinary dispensaries, poor-houses, leper-asylums and other educational or charitable institutions ;
- (e) the training of teachers and the establishment of scholarships ;
- (f) the giving of relief and the establishment and maintenance of relief-works in time of famine or scarcity ;
- (g) the supply, storage and preservation from pollution of water for the use of men or animals ;
- (h) the planting and preservation of trees ;
- (i) the taking of a census, and the registration of births, marriages and deaths ;
- (j) public vaccination and any other sanitary measure ;
- (k) the holding of fairs and industrial exhibitions ;
- (l) all acts and things likely to promote the safety, health, welfare or convenience of the inhabitants ; and
- (m) any other matter expenditure whereon may be declared by the committee, with the sanction of the Local Government, to be an appropriate charge on the municipal fund.

51. (1) In places where there is a Government treasury or sub-treasury or a bank to which the Government treasury business has been made over, the municipal fund shall be kept in the treasury, sub-treasury or bank. Custody and investment of municipal fund.

(2) In places where there is no such treasury or sub-treasury or bank, the municipal fund may be deposited with any banker or person acting as a banker, who has given such security, if any, for the safe custody and repayment on demand of the fund so deposited as the Local Government may in each case think sufficient.

(3) A committee may, from time to time, with the previous sanction of the Local Government, invest any portion of its municipal fund in securities of the Government of India or in such other securities as <sup>1</sup> [the Local Government subject to the control of] the Governor General in Council may approve in this behalf, and may vary such investments for others of the like nature ; and the income resulting from the securities and proceeds of the sale of the same shall be credited to the municipal fund.

52. (1) Subject to any special reservation which may be made by the Local Government, all property of the nature hereinafter in this section specified and situated within the limits of the municipality shall be vested Property vested in committee.

<sup>1</sup> These words in s. 51 (3) were inserted by the Decentralization Act, 1914 (IV of 1914).

in and belong to the committee, and shall, with all other property which may become vested in the committee, be under its direction, management and control, and shall be held and applied by it for the purposes of this Act, that is to say :—

- (a) all public town walls, gates, markets, slaughter-houses, manure and night-soil depôts and public buildings of every description which have been constructed or are maintained out of the municipal fund ;
- (b) all public streams, springs and works for the supply, storage and distribution of water for public purposes, and all bridges, buildings, engines, materials and things connected therewith or appertaining thereto, and also any adjacent land (not being private property) appertaining to any public tank or well ;
- (c) all public sewers and drains, and all sewers, drains, culverts and water-courses in, alongside or under any street, and all works, materials and things appertaining thereto ;
- (d) all dust, dirt, dung, ashes, refuse, animal matter or filth or rubbish of any kind, or dead bodies of animals, collected by the committee from the streets, houses, privies, sewers, cess-pools or elsewhere or deposited in places fixed by the committee under section 70 ;
- (e) all public lamps, lamp-posts and apparatus connected therewith or appertaining thereto ;
- (f) all land or other property transferred to the committee by His Majesty or by gift, purchase or otherwise for local public purposes ; and
- (g) all streets, and the pavements, stones and other materials thereof, and also all trees, erections, materials, implements and things provided for such streets.

(2) The Local Government may, by notification in the local official Gazette, direct that any property which has vested under sub-section (1) in the committee, shall cease to be so vested, and thereupon the property specified in the notification shall cease to be so vested, and the Local Government may pass such orders as it thinks fit regarding the disposal and management of such property.

**53.** Where any land, whether within or without the limits of a municipality, is required for the purposes of this Act, the Local Government may, at the request of the committee, proceed to acquire it under the provisions of the <sup>1</sup> Land Acquisition Act, 1894, and, on payment by the committee of the compensation awarded under that Act and of the charges incurred by the Government in connection with the proceedings, the land shall vest in the committee.

Acquisition  
of land  
under Act  
I of 1894.

<sup>1</sup> General Acts, Vol. IV.

## CHAPTER V.

## MUNICIPAL POLICE.

54. (1) Every committee shall, unless it is relieved of the obligation by the Local Government, maintain a sufficient police-establishment for police requirements within the limits of the municipality and for the performance of the duties imposed on the committee by this Act.

f 1889. (2) Subject to the provisions of the <sup>1</sup>Cantonments Act, 1889, the establishment maintained under sub-section (1) shall, as the committee with the approval of the Local Government may, from time to time, determine, be either a body of watchmen or a part of the general police-force under the Local Government within the meaning of section 2 of the <sup>2</sup>Police Act, 1861, or partly one and partly the other; and it shall consist of such number of officers and men, and the officers and men shall receive such pay, leave allowances, gratuities and pensions, as the committee may, from time to time, after consultation with the District Magistrate and the Inspector General of Police, and subject to the final decision of the Local Government, direct.

55. (1) The Local Government may relieve any committee of the cost of the whole or a part of the police-establishment, and may enter into a contract with the committee, on such terms as may be agreed on, that, in consideration of such relief, the committee shall pay periodically a sum not exceeding the estimated cost of such relief, or undertake any services within the municipality to which the municipal fund can properly be applied, and which are estimated to cost not more than such relief.

1889. (2) When a committee is relieved under this section of the cost of the whole or a part of the police-establishment, the Local Government shall maintain such police-establishment as it considers necessary, and, subject to the provisions of the Cantonments<sup>1</sup> Act, 1889, the establishment so maintained may be either a body of watchmen or a part of the general police-force under the Local Government within the meaning of section 2 of the <sup>2</sup>Police Act, 1861, or partly one and partly the other.

56. (1) Where the establishment maintained under this Chapter is wholly or in part a body of watchmen, the watchmen shall --

(a) be under the orders of the District Superintendent of Police, subject to the general control of the District Magistrate;

<sup>1</sup> See now the Cantonments Act, 1910 (XV of 1910), General Acts, Vol. VII.

<sup>2</sup> General Acts, Vol. I.

(b) be, in respect of their appointment, promotion, dismissal, suspension or punishment and in respect to their duties generally, subject to such rules as may be made in this behalf under this Act; and

(c) possess the same powers, be entitled to the same assistance, enjoy the same protection, be subject to the same responsibilities, and be liable to the same penalties as if they were police officers enrolled under the <sup>1</sup> Police Act, 1861.

V of 1861.

(2) Any person obstructing any such watchman in the discharge of his duties may be arrested without warrant by a police-officer or by any such watchman.

Duties of  
municipal  
police  
enrolled  
under Act V  
of 1861.

57. If the establishment maintained under this Chapter or any portion of such establishment is part of the general police-force, the Local Government may, notwithstanding anything in the <sup>1</sup> Police Act, 1861, or any other enactment for the time being in force, define, subject to the provisions of this Act, the duties which the officers and men of the establishment or such portion thereof may or may not be required to perform.

V of 1861.

Police-protec-  
tion at fairs,  
etc.

58. Where special police-protection is, in the opinion of the Local Government, requisite on the occasion of any fair, agricultural show or industrial exhibition managed by a committee, or any religious ceremony or festival held within the municipality, the Local Government may provide such protection, and the committee shall pay the whole charge thereof or such portion of the charge as the Local Government may consider equitably debitable to it.

## CHAPTER VI.

### POWERS FOR SANITARY AND OTHER PURPOSES.

#### *Streets and Buildings.*

Power to  
acquire land  
for building  
sites  
adjoining  
new streets.

59. Where any land is required for a new street or for the improvement of an existing street, the committee may proceed to acquire, in addition to the land to be occupied by the street, the land necessary for the sites of the buildings to be erected on the sides of the street.

Power to  
close streets.

60. The committee may close temporarily any street or any part thereof for the purpose of repairs, or for the purpose of constructing or repairing any sewer, drain, culvert or bridge, or for any other public purpose, and may divert, discontinue or permanently close any street vested in the committee

and sell the land or such part thereof as is not required for the purpose of this Act.

61. The committee may, by order in writing, permit the temporary occupation of any street or land vested in it for the purpose of depositing any building-materials or making any temporary excavation therein or erection thereon, subject to such conditions as it may prescribe for the safety or convenience of persons passing by or dwelling or working in the neighbourhood, and may charge fees for such permission, and may at its discretion withdraw the permission.

62. The committee may attach to the outside of any building brackets for lamps in such manner as not to occasion any injury to the building or inconvenience to the owner or occupier or to the public.

63. The committee at a meeting may cause a name to be given to any street, and to be affixed on any building in such place as it thinks fit, and may also cause a number to be affixed to any building ; and in like manner may, from time to time, cause such names and numbers to be altered.

64. The committee at a meeting may direct that, within certain limits to be fixed by it, the roofs and external walls of huts or other buildings shall not be made or renewed of grass, mats, leaves or other inflammable materials unless with the written permission of the committee : and the committee may, by notice, require any person to remove or alter as it may think fit the roofs or walls so made or renewed.

65. (1) Where any building or part of a building projects beyond the front of the building which is on either side thereof, or beyond the regular line of a street, either existing or determined on for the future, the committee may, if the building or part has been either entirely or in greater part taken down or burnt down or has fallen down, require by notice that the building or part, when being re-built, shall be set back to or towards the said regular line or the front of the adjoining building ; and the portion of the land added to the street by such setting back or removal shall become part of the street and shall vest in the committee :

Provided that the committee shall make full compensation to the owner for any damage he may sustain in consequence of his building or any part thereof being set back.

(2) The committee may, on such terms as it thinks fit, allow any building to be set forward for the improvement of the line of the street.

66. (1) Every person who intends to erect or re-erect—

(a) any building abutting on or adjoining any street, or any public place or property vested in His Majesty or in the committee ;

Power to permit temporary occupation of streets or land.

Power to attach brackets for lamps.

Names of streets and numbers of buildings.

Roofs and external walls not to be made of inflammable materials.

Power to regulate line of buildings.

Power to regulate new building.

(b) any building, if so required by any by-law made under section 105, shall give notice in writing of his intention to the committee, and the committee may either refuse to sanction the said building or may sanction the said building absolutely or subject to any written directions which the committee may deem fit to issue in respect of all or any of the matters following, namely :—

- (i) the free passage or way in front of the building ;
- (ii) the space to be left about the building to secure the free circulation of air and facilitate scavenging and for the prevention of fire ;
- (iii) the ventilation of the building, and the provision and position, materials, and method of construction of drains, privies or cess-pools ;
- (iv) the level and width of foundation ; the level of lowest floor and stability of structure ;
- (v) the line of frontage with neighbouring buildings, if the building abuts on a street ; and
- (vi) the means to be provided for egress from the building in case of fire ;

and the person erecting or re-erecting any such building as aforesaid shall obey all such written directions :

Provided that the committee shall not refuse to sanction the erection or re-erection of such building except on the ground that its erection or re-erection would be prejudicial to the health, safety or convenience of the public, or of persons who dwell or occupy property in the vicinity, or that, having regard to the locality, it is unsuitable in plan or design, or for other reasonable cause assigned : and

Provided, also, that the committee shall make full compensation to the owner for any loss or damage which he may sustain in consequence of the prohibition of the re-erection of any building, or of its requiring any land belonging to him to be added to the street.

(2) The committee may require any person, who has given such notice, to submit within one week of the receipt of the requisition a sufficient plan and specification of the building which he intends to erect or re-erect, together with a site plan of the land, with such reasonable details as the committee may prescribe in the requisition ; and in such case the notice shall not be valid until such plans and specification have been supplied.

(3) Where the committee neglects or omits for one month after the receipt of a valid notice under sub-section (1) to make and deliver to the person who has given such notice any order in respect thereof, and such person has by

written communication called the attention of the committee to the omission or neglect, and where such omission or neglect continues for a further period of fifteen days, the committee shall be deemed to have sanctioned the proposed building absolutely.

(4) Where the building so sanctioned is not begun by the person who has obtained such sanction, or by some one lawfully claiming under him, within six months from the date when such sanction is given, it shall not be begun without fresh sanction ; but such person as aforesaid may at any subsequent time give fresh notice to the committee in the manner aforesaid, and thereupon the provisions of this section shall apply to such fresh notice.

(5) Where any such building is begun or erected without sanction or in contravention of any written directions of the committee issued under subsection (1), or after the sanction has lapsed, the committee may, by notice given within a reasonable time, require the building to be altered or demolished as it may deem necessary.

*Explanation.*—The expression “erect any building” includes the erection of any wall and all additions and alterations which involve new foundations or increased superstructure on existing foundations, or the conversion into a dwelling-house of any building not originally constructed for human habitation, or the conversion into more than one dwelling-house of a building originally constructed as one dwelling-house only.

67. (1) No person shall, without the written permission of the committee, add to or place against or in front of any building, any projection or structure overhanging, projecting into, or encroaching on any street or into, on or over any drain, sewer or aqueduct therein.

Removal of  
projections  
and over-  
hanging  
structures.

(2) The committee may, by notice, require the owner or occupier of any building to remove or alter any such projection or structure :

Provided that, in the case of any such projection or structure lawfully in existence at the commencement of this Act, the committee shall make reasonable compensation for any damage caused by the removal or alteration.

(3) The committee may, by order in writing, permit the owners or occupiers of buildings in streets to put up open verandahs, balconies or rooms projecting from any upper storey thereof to an extent beyond the line of the plinth or basement wall, and at a height from the level of the ground or street, to be specified in the written permission.

68. Nothing in sections 59 to 67 shall apply to any building or land within the limits of a municipality which is the property of His Majesty.

Exemption of  
Government  
buildings or  
lands from the  
operation of  
sections 59  
to 67.

*Bathing and Washing Places.*

Bathing and  
washing  
places.

69. The Committee may set apart suitable places for the purpose of bathing, and may specify the times at which, and the sex of the persons by whom, such places may be used, and may also set apart suitable places for washing animals or clothes, or for any other purpose connected with the health, cleanliness or comfort of the inhabitants of the municipality, and may, by public notice, prohibit bathing, or washing animals or clothes, in any public place not so set apart, or at times or by persons other than those specified, and all other acts not so permitted which may render water in public places foul or unfit for use or may cause inconvenience or annoyance to persons using the bathing or washing places.

*Deposit of Offensive Matter and Slaughter-places.<sup>1</sup>*

Removal and  
deposit of  
offensive  
matter.

70. The committee may fix places within or, with the approval of the Deputy Commissioner, without the limits of the municipality for the deposit of refuse, rubbish or offensive matter of any kind or for the disposal of the dead bodies of animals, and may by public notice give directions as to the time, manner and conditions at, in and under which such refuse, rubbish or offensive matter or dead bodies of animals may be removed along any street and deposited at such places.

Places for  
slaughter of  
animals.

171. (1) The committee may, with the approval of the Deputy Commissioner, fix and abolish places either within or without the limits of the municipality for the slaughter of animals for sale, or of any specified description of such animals, and may with the like approval grant and withdraw licenses for the use of such places, or, if they belong to, or are under the control of, the committee, charge rent or fees for the use of the same.

(2) Where such places are fixed by the committee without the limits of the municipality, it shall have the same power to make rules for the inspection and proper regulation of the same, as if they were within those limits.

(3) Where any such place has been fixed, no person shall slaughter for sale any such animals at any other place within the municipality.

Slaughter of  
animals for  
other  
purposes.

72. Where it appears to the Deputy Commissioner to be necessary for the preservation of the public peace or order, he may, with the previous sanction of the Commissioner and by notification published in the manner prescribed, prohibit or regulate the slaughter within the limits of a municipality of animals, or of any specified description of animals, for purposes other than sale, and specify the mode and route in and by which meat shall be conveyed from the place where such animals are slaughtered.

<sup>1</sup> As to withdrawal of slaughter houses from the control of a Municipal Committee, see s. 9 of C. P. Act IV of 1915, *infra*, p. 363.



73. (1) Where any animal in the charge of any person dies otherwise than by being slaughtered either for sale or consumption or for some religious purpose, the person in charge thereof shall within twenty-four hours either—

Special provisions with respect to disposal of dead bodies of animals.

(a) convey the carcass to a place (if any) fixed by the committee under section 70 for the disposal of the dead bodies of animals, or, where no such place has been fixed, to a place without the limits of the municipality not being within one mile of those limits where such bodies may lawfully be deposited ;

(b) give notice of the death to the committee, whereupon the committee shall cause the carcass to be disposed of.

(2) In respect of the disposal of a carcass under sub-section (1), clause (b), the committee may charge such fee as may from time to time be fixed by resolution of the committee in this behalf.

74. For the purposes of sections 70, 71, 72 and 73, all cattle, elephants, camels, horses, asses, mules, deer, sheep, goats, swine and other large animals shall be deemed to be "animals."

Definition of "animal."

#### *Burial and Burning Places.*

75. (1) The committee may, by public notice, order any burial or burning ground which is, in its opinion, dangerous to the health of persons living in the neighbourhood to be closed from a date to be specified in the notice, and shall in such case, if no suitable place for burial or burning exists within a reasonable distance, provide a fitting place for the purpose.

Powers in respect of burial and burning places.

(2) Private burial places in such burial grounds may be excepted from the notice, subject to such conditions as the committee may impose in this behalf :

Provided that the limits of such burial-places are sufficiently defined, and that they shall only be used for the burial of members of the family of the owners thereof.

(3) No burial or burning ground, whether public or private, shall be made or formed, after the commencement of this Act, without the permission in writing of the committee.

76. The committee may, by public notice, prescribe routes for the removal of corpses to burial or burning places.

Removal of corpses.

#### *Inflammable Materials.*

77. The committee may, where it appears to it to be necessary for the prevention of danger to life or property, by public notice, prohibit all persons from stacking or collecting grass, straw, cotton, wood or other inflammable

Inflammable materials.

materials, or placing mats or thatched huts or lighting fires, in any place or within any limits specified in the notice.

*Powers of Entry and Inspection.*

Powers in  
respect of  
drains,  
privies and  
cess-pools.

78. (1) The committee, by any person authorized by it in this behalf, may, between sunrise and sunset, enter into any building or upon any land, and inspect any drains, privies or cess-pools therein or thereon, and may cause the ground to be opened where such person as aforesaid may think fit for the purpose of preventing or removing any nuisance arising from the drains, privies or cess-pools.

(2) Where, on such inspection, it appears that the opening of the ground was necessary for the prevention or removal of a nuisance, the expenses thereby incurred shall be paid by the owner or occupier of the land or building: but where it is found that no nuisance exists, or but for such opening would have existed, the ground or portion of any building, drain or other work (if any) opened, injured or removed for the purposes of such inspection shall be filled in, restored and made good by the committee.

(3) No building other than a latrine directly accessible from any street or public place shall be entered under this section unless six hours' notice has been given to the occupier of the building by the committee or by the person authorized by the committee to make the entry.

Powers of  
entry on  
buildings or  
land.

79. The committee, by any person authorized by it in this behalf, may after giving twenty-four hours' notice to the occupier or, where there is no occupier, to the owner of any building or land, at any time between sunrise and sunset—

- (a) enter upon and survey and take levels of any land ;
- (b) enter and inspect any building and by notice direct all or any part thereof to be forthwith internally or externally lime-washed, disinfected or otherwise cleansed for sanitary reasons ;
- (c) enter and measure any building for the purpose of valuation ;
- (d) enter any building or upon any land for the purpose of examining works under construction, of ascertaining the course of sewers or drains, or of executing or repairing any work which the committee is by this Act empowered to execute or maintain.

Power to  
enter for  
discovery of  
animals or  
vehicles  
liable to  
taxation.

80. The committee, by any person authorized by it in this behalf, may, at any time between sunrise and sunset, enter and inspect any stable, coach-house or other place wherein there is reason to believe that there is any animal or vehicle which is liable to taxation under this Act and for which the tax has not been duly paid.

81. (1) The committee, by any person authorized by it in this behalf, may, at all reasonable times, enter and inspect any market, building, shop, stall or place used for the sale or storage of articles intended for human consumption or as a slaughter-house, or for the sale of drugs, and inspect and examine any article, animal or drug which may be therein ; and, where any such article or any animal therein appears to be intended for human consumption and to be unfit therefor, may seize and remove the same ; or, where the owner or the person in whose possession the same is found consents, may cause it to be destroyed or to be so disposed of as to prevent its being exposed for sale or used for such consumption ; and, in case any drug is reasonably suspected of being adulterated in such manner as to lessen its efficacy or to change its operation or to render it noxious, may remove the same, giving a receipt therefor, and may cause any such article, animal or drug to be brought before a Magistrate.

Power in respect of places used for sale or storage of articles for human consumption as slaughter-houses or for sale of drugs.

(2) Where the committee, or any person authorized by it in this behalf, applies to purchase any article intended for human consumption or any drug exposed for sale, and tenders the price for a quantity such as may be reasonably requisite for the purpose of analysis, the person exposing the same for sale shall be bound to sell such quantity.

Power of entry in certain cases for purposes connected with scavenging.

82. (1) The committee may provide for the performance by its agents of the duties usually performed by sweepers in respect of any building or land or of any privy, drain, cess-pool or other receptacle for offensive matter pertaining to any building or land, or with the consent of the occupier of the building or land, or without such consent if the occupier fails to make arrangements to the satisfaction of the committee for the performance of such duties.

(2) Where the committee has undertaken to provide for the performance by its agents of such duties as aforesaid, the persons employed by it to perform the same may enter upon the property at all reasonable times so far as may be necessary for the proper discharge of those duties ; and the committee, by any person authorized by it in this behalf, may enter upon the property at all reasonable times for the purpose of ascertaining that such duties have been duly performed.

83. (1) The committee may, at any reasonable time, by any person authorized by it in this behalf, enter and inspect any house or building which is suspected to contain petroleum or any other explosive or inflammable material in excess of the quantity permitted to be kept in such house or building by or under this Act.

Power in respect of inflammable or explosive material when stored in excess of authorized quantity.

(2) Where any such excess quantity of such material is discovered, it may be seized and held subject to such orders as the District Magistrate may make with respect thereto.

(3) Where the District Magistrate decides that the material seized was stored in the house or building, in contravention of this Act or of any rule or public notice made or published thereunder, he may pass an order confiscating the same.

(4) Subject to any rules for the time being applicable thereto, the material so confiscated may be sold by order of the District Magistrate, and the proceeds, after defraying the expenses of the sale, shall be credited to the municipal fund.

(5) No order of confiscation under this section shall operate to prevent any other criminal or civil proceeding to which the persons storing the material in excessive quantity may be liable.

Precautions  
to be  
observed in  
entering  
dwelling.

84. Where any building used as a human dwelling is entered under this Act, due regard shall be paid to the social and religious sentiments of the occupier; and, before any apartment in the actual occupancy of any woman, who according to custom does not appear in public, is entered, notice shall be given to her that she is at liberty to withdraw, and every reasonable facility shall be afforded to her for withdrawing.

#### *Water-pipes, Privies and Drains.*

Troughs and  
pipes for  
rain-water.

85. The committee may, by notice, require the owner of any building in any street to put up and keep in good condition proper troughs and pipes for receiving and carrying the water from the roof and other parts thereof and for discharging the same so as not to cause injury to the street or inconvenience to persons passing along the street.

Provision of  
privies or  
cess-pools.

86. (1) The committee may, by notice, require the owner of any building to provide, in such manner as the committee directs, any privy or cess-pool, or additional privies or cess-pools, which should in the opinion of the committee be provided for the building or the land appurtenant thereto.

(2) The committee may, by notice, require any persons employing more than twenty workmen or labourers to provide such latrines and urinals as it may think fit and to cause the same to be kept in proper order, and to be daily cleaned.

(3) The committee may, by notice, require the owner or occupier of any building or land to have any privy provided for the same shut out by a sufficient roof and wall or fence from the view of persons passing by or dwelling in the neighbourhood, or to remove or alter, as the committee directs, any door or trap-door of a privy opening on to any street or drain.

87. (1) The committee may, by notice, require the owner or occupier of any building or land to repair or alter or put in good order any privy, drain or cess-pool, or to close any cess-pool belonging thereto, or to connect any drain on such building or land with any public drain :

Repair and closing of privies, drains or cess-pools.

Provided that no owner or occupier shall be bound under this sub-section, in order to establish such connection, to carry out any work on land or premises not owned or occupied by him to a greater distance than twenty-five feet.

(2) The committee may, by notice, require any person who constructs any new privy, drain or cess-pool without its written permission or in contravention of its directions or of the provisions of this Act, or who constructs, re-builds or opens any privy, drain or cess-pool which the committee has ordered to be removed or stopped up or not to be made, to remove the privy, drain or cess-pool, or to make such alteration therein as the committee thinks fit.

88. The committee may, by notice, require any person who without its written permission erects or re-builds any building over any public sewer, drain, culvert, water-course or water-pipe vested in the committee to pull down or otherwise deal with the building as it thinks fit.

Unauthorized building over drains.

89. The committee may, by notice, require any owner or occupier on whose land any drain, latrine, urinal, cess-pool or other receptacle for filth or refuse for the time being exists within fifty feet of any spring, well, tank, reservoir or other source from which water is or may be derived for public use, to remove or close the same within one week from the service of the notice.

Removal of drains, latrines or cess-pools near any source of water-supply.

90. The committee may, by notice, require the owner or occupier of any building or land to cleanse, repair, cover, fill up or drain off any private tank, well, reservoir, pool or excavation therein which appears to the committee to be injurious to health or offensive to the neighbourhood :

Power to require drainage of unwholesome tanks.

Provided that, if for the purpose of effecting under this section any drainage it is necessary to acquire any land not belonging to such owner or occupier or to pay compensation to any other person, the committee shall provide the land or pay the compensation.

#### *Dangerous Buildings and Places.*

91. Where any building or any well, tank or other excavation, is for want of sufficient repair, protection or enclosure dangerous to persons passing by or dwelling or working in the neighbourhood, the committee may, by notice, require the owner or the occupier thereof to repair, protect or enclose the same ; and, where it appears to the committee to be necessary in order to prevent imminent danger, the committee shall forthwith take such steps as are necessary to avert the danger.

Power to require buildings, wells, tanks or excavations to be secured.

Power to require building, wall or structure in ruinous or dangerous state to be removed or repaired.

92. Where any building, wall or structure or anything affixed thereto is deemed by the committee to be in a ruinous state or in any way dangerous, the committee may, by notice, require the owner or occupier thereof forthwith either to remove the same or to cause such repairs to be made to the building, wall or structure or thing affixed thereto as it considers necessary for the public safety ; and, where it appears to the committee to be necessary in order to prevent imminent danger, the committee shall forthwith take such steps as are necessary to avert the danger.

*Buildings and Grounds in Insanitary Condition.*

Power to require owner to clear away noxious vegetation.

93. The committee may, by notice, require the owner or occupier of any land to clear away and remove any thick or noxious vegetation or undergrowth which appears to it to be injurious to health or offensive to the neighbourhood.

Power to require owner to trim hedges and trees bordering on street.

94. The committee may, by notice, require the owner or occupier of any land to cut or trim, within three days, the hedges standing on the land and bordering on any street, or the branches of trees growing on the land and overhanging any street and obstructing the same or causing danger thereto, or so overhanging any well, tank or other source from which water is derived for public use as to be likely to pollute the water thereof.

Power to require filthy buildings or land to be cleaned.

95. Where the owner or occupier of any building or land suffers the same to be in a filthy or unwholesome state, the committee may, by notice, require him to cleanse the same or otherwise put it in a proper state within twenty-four hours.

Power to prohibit use for human habitation of buildings unfit for such use.

96. Where any building appears to the committee to be unfit for human habitation in consequence of the want of proper means of drainage or ventilation or for other sufficient reason, the committee may, by notice, prohibit the owner or occupier of the building from using it for human habitation or suffering it to be so used, until the committee is satisfied that it has been rendered fit for such use.

Power to require untenanted buildings becoming a nuisance to be secured or enclosed.

97. The committee may, by notice, require the owner, or any person claiming to be the owner, of any building or land which, by reason of abandonment or disputed ownership or other cause, remains untenanted and thereby becomes a resort of idle and disorderly persons or otherwise a nuisance, to secure or enclose the same within a reasonable time specified in the notice.

Power to Local Government to prohibit cultivation, use of manure or irrigation injurious to health.

98. Where the civil surgeon or health officer certifies that the cultivation of any description of crop, or the use of any kind of manure, or the irrigation of land in any specified manner,—

(a) in any place within the limits of the municipality, is injurious or facilitates practices which are injurious to the health of persons dwelling in the neighbourhood, or,

(b) in any place within or without the limits of the municipality, is likely to contaminate the water-supply of the municipality or otherwise render it unfit for drinking purposes,

the Local Government may prohibit the cultivation of such crop,<sup>1</sup> the use of such manure, or the use of the method of irrigation so reported to be injurious, or impose such conditions with respect thereto as may prevent the injury :

Provided that, if the act prohibited has been practised in the ordinary course of husbandry at any time during the five years next preceding the date of the prohibition, compensation shall be paid from the municipal fund to all persons interested therein for any damage caused to them by such prohibition.

### *Offensive and Dangerous Trades.*

99. (1) No place within the limits of the municipality shall be used—

Regulation  
of offensive  
and danger-  
ous trades.

- (a) for melting tallow ; or
- (b) for boiling bones, offal or blood ; or
- (c) as a soap-house, oil-boiling-house, dyeing-house or tannery ; or
- (d) as a brick-kiln, pottery or lime-kiln ; or
- (e) as any other manufactory or place of business from which offensive or unwholesome smells arise ; or
- (f) as a yard or depot for trade in hay, straw, cotton, thatching grass, wood or coal, or petroleum or any other explosive or inflammable material,

except under a license obtained by the owner or occupier from the committee and renewable annually.

(2) No such license shall be withheld unless the committee considers that the business which it is intended to establish or maintain, would be offensive or dangerous to persons residing in or frequenting the immediate neighbourhood.

(3) The committee may charge fees for the issue and renewal of such licenses, and may impose such conditions in respect thereof as it thinks fit.

100. Where it is shown to the satisfaction of the committee at a meeting that any place licensed under section 99 is a nuisance to the neighbourhood or likely to be dangerous to life, health or property, the committee may, by notice, require the occupier of the place to discontinue the use thereof, or to use the place in such manner as will, in the opinion of the committee, render it no longer a nuisance or dangerous.

Power to  
prohibit such  
trades.

<sup>1</sup> For notifications under s. 98 prohibiting the cultivation of certain crops in specified places, see the C. P. Local Rules and Orders.

Milkmen and others not to keep animals or cattle without license.

101. (1) Within such limits as the committee may determine, no milkman, cartman or keeper of hackney-carriages shall keep horses, ponies or cattle for the purpose of trade or business, except under a license obtained by such person from the committee and renewable annually.

(2) The committee may charge a fee not exceeding one rupee for the issue or renewal of any such license, and may impose such conditions in respect thereof as it thinks fit.

*Sale of Food, Drink and Drugs.*

Power to make by-laws as to sale of articles intended for human consumption and drugs.

102. (1) The committee may, from time to time, make by-laws,<sup>1</sup> consistent with this Act—

- (a) to regulate the sale or exposure for sale of any specified articles intended for human consumption or drugs, either by rendering licenses necessary or otherwise ;
- (b) to fix fees for the grant of such licenses and prescribe the conditions subject to which they may be granted and revoked ;
- (c) to regulate the hours and manner of transport within the municipality of such specified articles or drugs ;
- (d) to fix the places in which such specified articles or drugs may or may not be sold or exposed for sale ;
- (e) to prohibit the sale of the flesh of animals not slaughtered at a place fixed, or in accordance with a license granted, under section 71 ;
- (f) to require sellers of meat to procure from, and on requisition to produce to, the person or persons empowered in this behalf by the committee, passes showing that their meat has been slaughtered in a place fixed or licensed under section 71 and in accordance with any by-laws made under section 105, sub-section (1), clause (b) ; and
- (g) to regulate the sanitary condition of bakeries, dairies and places where milch animals are kept for profit :

Provided that no person shall be punishable for the breach of any by-law made under clause (a) or clause (d) by reason of the continuance of such sale or exposure for sale upon any premises which are at the time of the making of such by-law used for such purpose and have been so used for a period of not less than one year, until he has received from the committee six months' notice to discontinue such sale or exposure for sale in such premises.

<sup>1</sup> For notifications publishing by-laws made under s. 102 for various municipalities, see the C. P. Local Rules and Orders.



(2) In making any by-law under this section, the committee may direct that a breach of it shall be punishable with fine which may extend to fifty rupees, and, where the breach is a continuing breach, with further fine which may extend to five rupees for every day after the first during which the breach is proved to have been persisted in.

(3) No by-law made under this section shall come into force until it has been confirmed by the Local Government and published for the prescribed time and in the prescribed manner.

### *Disposal of dogs.*

103. (1) The committee, by any person authorized by it in this behalf, may— Disposal of  
dead and  
stray dogs.

- (a) destroy or cause to be destroyed, or confine or cause to be confined, for such period as the committee may direct, any dog suffering from rabies or reasonably suspected to be suffering from rabies ;
- (b) confine, or cause to be confined, any dogs found wandering about streets or public places without collars or other marks distinguishing them as private property, and charge a fee for such detention, and destroy or otherwise dispose of any such dog if it is not claimed within one week and the fee paid ;
- (c) appoint from time to time, by public notice, certain periods within which any dogs without collars or other marks distinguishing them as private property, found straying on the streets or beyond the enclosure of houses of the owners of such dogs, may be destroyed and destroy or cause them to be destroyed accordingly.

(2) No compensation shall be payable in respect of any dog destroyed or otherwise disposed of under this section.

### *Restraint of Infection.*

104. Where the committee, on the report of the civil surgeon or health officer, considers that the water in any well, tank or other place is likely, if used for drinking, to engender or cause the spread of any dangerous disease, it may,— Prohibition  
by committee  
of use of  
unwholesome  
water.

- (a) by public notice, prohibit the removal or use of such water for drinking ;
- (b) by notice, require the owner or person having control of such well, tank or place either to keep the water disinfected to the satisfaction of the civil surgeon or health officer, or to take such steps as may be specified in the notice to prevent the public from having access to or using such water.

*By-laws generally.*

General  
power to  
make by-  
laws.

105. (1) The committee may, from time to time, make by-laws<sup>1</sup> consistent with this Act,—

- (a) for protecting from injury or interference anything within the limits of the municipality being the property of His Majesty or of the committee ;
- (b) for inspecting and regulating the use of encamping grounds, halting-places, pounds, sarais, markets, dhobis' ghats, slaughter-houses, places for the disposal of dead animals, and any places of public entertainment and resort, and for the charge of fees for the use of such buildings and places when vested in the committee ;
- (c) for licensing brokers, measurers and weighmen practising their calling in public places within the municipality, and fixing the fees payable for such licenses and the conditions on which they are to be granted and may be revoked ;
- (d) for prescribing the standard weights and measures to be used within the municipality ;
- (e) for controlling and regulating the use and management of burial and burning grounds, and fixing the fees to be charged where such grounds have been provided by the committee ;
- (f) for prescribing the means by which the owner or occupier of any place which is a factory within the meaning of the<sup>2</sup> Indian Factories Act, 1881, is to provide for the consumption of the smoke of any chimney or furnace so as to prevent the smoke from being a nuisance to any person in the neighbourhood ;
- (g) for licensing proprietors or drivers of vehicles, boats or animals plying for hire within the limits of the municipality, and fixing the fees payable for such licenses and the conditions on which they are to be granted and may be revoked ;
- (h) for limiting the rates which may be demanded for the hire of any carriage, cart, boat or other conveyance or of animals hired to carry loads, or for the services of persons hired to carry loads where those conveyances, animals or persons are hired within the municipality for a period not exceeding twenty-four hours ; or for a service which would ordinarily be performed within twenty-four hours ;

V of 1881

<sup>1</sup> For notifications publishing by-laws made under s. 105 for various Municipalities, see the C. P. Local Rules and Orders.

<sup>2</sup> See now the Indian Factories Act, 1911 (XII of 1911), General Act, Vol. VII.

- (i) for securing a proper registration of births, marriages and deaths ;
- (j) for the proper regulation of buildings let in lodgings or occupied by coolies or by more than one family ;
- (k) for the supervision and regulation of public cisterns, water-standards, wells, tanks, springs or other sources of public water-supply, and, where water is supplied from a public source to any private premises, for regulating and controlling such supply ;
- (l) for controlling and regulating the duties of sweepers and other persons employed by the committee for the clearing of drains and the removal and disposal of sewage and filth, and prescribing the conditions on which they may withdraw from employment ;
- (m) where the collection of an octroi-tax has been sanctioned, for fixing octroi-limits for the purposes of that tax ;
- (n) for the regulation of building within the municipality ;
- (o) for regulating the storage of any petroleum or other explosive material ;
- (p) for regulating or prohibiting the keeping of animals of any specified description ;
- (q) for regulating and prohibiting the stationing of carts or picketing of animals on any ground under the control of the committee or the using such ground as a halting-place for vehicles or animals or as a place for encampment or the causing or permitting any animal to stray ;
- (r) for regulating traffic in the streets ; and
- (s) generally, for carrying out the purposes of this Act.

(2) In making any by-law<sup>1</sup> under this section the committee may direct that a breach of it shall be punishable with fine which may extend to fifty rupees, and, where the breach is a continuing breach, with further fine which may extend to five rupees for every day after the first during which the breach is proved to have been persisted in.

(3) No by-law<sup>1</sup> made under this section shall come into force until it has been confirmed by the Local Government and published for the prescribed time and in the prescribed manner.

(4) Notwithstanding anything in this section, the committee of a municipality in which the<sup>2</sup> Hackney-carriage Act, 1879, is in force, shall not make by-laws under sub-section (1), clauses (g) and (h), in respect of any vehicles to which that Act applies.

<sup>1</sup> See footnote to s. 105 (1), *supra*.

<sup>2</sup> *Supra*, p. 77.

Power to prohibit commission of public nuisances.

106. Subject to any orders which the Local Government may make in this behalf, the committee may order any person not to do, or not to omit to do, within the limits of the municipality, anything the doing of, or the omission to do, which is a public nuisance under the <sup>1</sup> Indian Penal Code.

XLV of

Powers as to conditional orders in respect of certain acts and omissions.

107. (1) The Local Government may invest, within the limits of a municipality, the committee with the powers of the District Magistrate as described in section 133 of the <sup>2</sup> Code of Criminal Procedure, 1898, and with V of 18 power to make conditional orders of the nature referred to in that section, in respect of all or any acts or omissions punishable under by-laws made in exercise of the powers conferred by section 105, sub-section (1), clauses (a), (b), (c), (d) and (e).

(2) Sections 131 to 142 of the <sup>2</sup> Code of Criminal Procedure, 1898, shall, V of 18 so far as they can be made applicable, apply to all proceedings taken in exercise of these powers :

Provided that, for the purposes of such proceedings, section 133 of the Code shall be read as if for the words " before himself or some other Magistrate of the first or second class " the words " before the District Magistrate or some Magistrate of the first or second class appointed by him in this behalf " were substituted.

Delegation of powers to sub-committees.

108. (1) The committee may, at a special meeting, delegate to one or more sub-committees or its members any of the powers which are vested in the committee by section 106, or with which the committee may have been invested under section 107.

(2) Any notice, which under this Chapter may be given by a committee, may be given by a sub-committee, if the by-laws so provide.

## CHAPTER VII.

### OFFENCES AND PENALTIES.

Depositing or throwing earth or materials or refuse, rubbish or offensive matter on roads or into drains.

109. Whoever, without the written permission of the committee or in disregard of its orders, throws or deposits, or permits his servants or members of his household under his control to throw or deposit, earth or materials of any description, or refuse, rubbish or offensive matter of any kind, upon any street or public place, or into any public sewer or drain or any drain, communicating therewith, shall be punishable with fine which may extend to twenty rupees.

<sup>1</sup> General Acts, Vol. I.

<sup>2</sup> General Acts, Vol. V.

110. Whoever, without the written permission of the committee, causes <sup>Discharging</sup> or allows the water of any sink, sewer or cess-pool, or any other offensive <sup>sewage.</sup> matter, to flow, drain or be put upon any street or public place or into any sewer or drain not set apart for the purpose, shall be punishable with fine which may extend to twenty rupees.

111. Whoever, being the owner or occupier of any building or land, <sup>Failure to</sup> keeps or allows to be kept for more than twenty-four hours, or otherwise <sup>remove</sup> than in some proper receptacle, any dirt, dung, lones, ashes, nightsoil or <sup>offensive</sup> filth or any noxious or offensive matter in or upon such building or land or suffers any such receptacle to be in a filthy or noxious state, or neglects to employ proper means to cleanse and purify the same, shall be punishable with fine which may extend to fifty rupees.

112. Whoever, without the written permission of the committee, makes <sup>Making or</sup> or causes to be made, or alters or causes to be altered, any drain leading into <sup>altering</sup> any of the channels, sewers or drains vested in the committee, shall be <sup>drains</sup> punishable with fine which may extend to fifty rupees. <sup>without</sup>

113. Whoever makes, without the written permission of the committee, <sup>Making or</sup> or keeps for a longer time than one week after a notice to remove or close <sup>keeping</sup> issued under section 89, any drain, latrine, urinal, cess-pool or other recept- <sup>latrines near</sup> acle for filth refuse within fifty <sup>any source</sup> feet of any spring, well, tank, reservoir <sup>of water-</sup> or other source from which water is or may be derived for public use, shall <sup>supply.</sup> be punishable with fine which may extend to twenty rupees, and, where a notice has issued, with further fine which may extend to five rupees for each day during which the offence is proved to have been persisted in after the lapse of the period allowed for removal or closure.

114. Whoever feeds or allows to be fed on any deleterious substance, <sup>Feeding</sup> filth or refuse of any kind any animal which is kept for dairy purposes or is <sup>animals on</sup> intended for human consumption shall be punishable with fine which may <sup>deleterious</sup> extend to fifty rupees. <sup>substances.</sup>

115. Whoever, in driving a vehicle in any street, fails, except in case of <sup>Neglect of</sup> actual necessity, to keep to the left when passing a vehicle coming from the <sup>the rule of</sup> opposite direction and to the right when passing a vehicle going in the <sup>the road.</sup> same direction, shall be punishable with fine which may extend to ten rupees.

116. Whoever drives any vehicle without having proper means of con- <sup>Driving</sup> trolling any animal harnessed therein, or drives any vehicle of any kind <sup>vehicles</sup> after dark in any street unless the vehicle is properly supplied with lights or <sup>without</sup> there is sufficient moonlight to render lights unnecessary, shall be punishable <sup>proper means</sup> with fine which may extend to twenty rupees. <sup>of control or</sup> <sup>lights.</sup>

Discharging  
fire-arms, etc.

117. Whoever discharges fire-arms or lets off fireworks or fire-balloons, or flies kites, or engages in any game, in such a manner as to cause or be likely to cause danger or annoyance to persons passing by or dwelling or working in the neighbourhood, or risk of injury to property, shall be punishable with fine which may extend to twenty rupees.

Control of  
elephants and  
camels.

118. Whoever, being an elephant-driver or camel-driver, omits on being requested to do so to remove his elephant or camel to a safe distance on the approach of a horse, whether ridden or driven, or of any vehicle drawn by bullocks, shall be punishable with fine which may extend to twenty rupees.

Taking  
animal or  
vehicles  
along public  
roads.

119. Whoever, in disregard of any orders of the committee, takes any animal or vehicle along a street, shall be punishable with fine which may extend to twenty rupees.

Beating  
drum or  
sounding  
musical in-  
strument.

120. Whoever, in disregard of any orders made by the committee with the sanction of the Deputy Commissioner, beats any drum or sounds any musical instrument so as to cause annoyance to the public, shall be punishable with fine which may extend to twenty rupees.

Suffering  
animals to be  
at large.

121. Whoever wilfully or negligently lets loose any horse or other animal so as to cause, or negligently allows any horse or other animal to cause injury, danger, alarm, or annoyance to any person, or suffers any ferocious dog to be at large without a muzzle, shall be punishable with fine which may extend to fifty rupees.

Altering,  
obstructing  
or encroach-  
ing upon  
streets.

122. Whoever, without the written permission of the committee, alters, obstructs or encroaches upon any street, public sewer, drain or water-course, or displaces, takes or alters the pavement or other materials or the fences or posts of any street or public place, or deposits building materials or makes any hole or excavation on or in any street, shall be punishable with fine which may extend to fifty rupees.

Quarrying,  
blasting,  
cutting  
timber or  
building.

123. Whoever quarries, blasts, cuts timber or carries on building operations in such a manner as to cause, or be likely to cause, danger to persons passing by or dwelling or working in the neighbourhood, shall be punishable with fine which may extend to fifty rupees.

Making or  
selling food  
when suffer-  
ing from  
disease.

124. Whoever, when suffering from any infectious or contagious disease, makes or offers for sale any article intended for human consumption, shall be punishable with fine which may extend to two hundred rupees.

Disturbing  
direction-  
posts or  
lamps.

125. Whoever, without the authority of the committee, defaces or disturbs any direction-post, or lamp-post or extinguishes any light maintained by the committee in any street or public place, shall be punishable with fine which may extend to twenty rupees.

126. Whoever destroys, pulls down or defaces any name or number put up under section 63 by order of the committee, or puts up any different name or number, shall be punishable with fine which may extend to twenty rupees.

Destroying or defacing names or numbers.

127. Whoever, in contravention of the provisions of section 71, slaughters for sale any animal at any place within the municipality other than the place fixed under that section, shall be punishable with fine which may extend to twenty rupees.

Slaughtering animals contrary to section 71.

128. Whoever slaughters any animal or conveys meat from the place of slaughter in contravention of any notification under section 72, shall be punishable with fine which may extend to two hundred rupees.

Slaughtering animal or conveying meat contrary to notification under section 72.

129. Whoever fails to comply with the provisions of section 73 in regard to the disposal of dead bodies of animals, shall be punishable with fine which may extend to ten rupees.

Improper disposal of dead bodies of animals.

130. Whoever buries or burns, or causes or permits to be buried or burnt any corpse in any burial or burning ground made or formed in contravention of the provisions of section 75, or after the date fixed thereunder for closing the same, shall be punishable with fine which may extend to fifty rupees.

Burying or burning corpse contrary to section 75.

131. Whoever carries a corpse along a route prohibited by the committee or in a manner likely to cause annoyance to the public, shall be punishable with fine which may extend to twenty rupees.

Carrying corpses by prohibited routes or so as to cause annoyance.

132. (1) Whoever sells to the prejudice of any purchaser any article intended for human consumption which is not of the nature, substance or quality of the article demanded by such purchaser, shall be punishable with fine which may extend to one hundred rupees.

Selling article for human consumption of a nature different from the article demanded.

(2) The provisions of sub-section (1) shall not apply in the following cases, namely :—

(a) where any matter or ingredient not injurious to health has been added to the article in order to make it fit, as an article of commerce, for carriage or consumption, and not with intent fraudulently to increase its bulk, weight or measure or to conceal its inferior quality ;

(b) where the article is unavoidably mixed with some extraneous matter in the process of collection or preparation.

(3) The provisions of sub-section (1) shall apply to the purchase under section 81 of any article for the purpose of analysis.

133. Where any animal, article or drug is brought before a Magistrate under section 81, sub-section (1), the Magistrate, if it is proved that the

Possession of article or animal unfit

for human consumption, or adulterated drug.

article or animal was intended for the consumption of man and is unfit therefor, or that the drug is adulterated in such manner as to lessen its efficacy or to change its operation or to render it noxious, may order the article or animal to be destroyed or to be so disposed of as to prevent its being exposed for sale or used for human consumption, and the drug to be dealt with as he may think fit, and may direct that the owner or person in possession of such article, animal or drug shall be punished with fine which may extend to one hundred rupees :

Provided that a person who is in possession of any article or animal or drug as a carrier or bailee thereof, shall not be liable to fine under this section.

Refusing to sell food or drink.

**134.** Whoever, in contravention of the provisions of section 81, sub-section (2), refuses to sell any article intended for human consumption, shall be punishable with fine which may extend to fifty rupees.

Cultivating, manuring or irrigating contrary to section 98.

**135.** Whoever cultivates, uses manure or irrigates in disregard of the prohibition or conditions imposed under section 98, shall be punishable with fine which may extend to fifty rupees, and with further fine which may extend to five rupees for every day after the first during which the offence is proved to have been persisted in.

Using places for certain trades without license.

**136.** Whoever, in contravention of the provisions of section 99 or of section 101, uses without a license any place for any purpose mentioned in either of those sections, shall be punishable with fine which may extend to fifty rupees, and with further fine which may extend to ten rupees for every day after the first during which the offence is proved to have been persisted in.

Using places for offensive or dangerous trades after prohibitory notice.

**137.** Whoever, after notice has been given under section 100, uses any place or permits it to be used in such a manner as to be a nuisance to the neighbourhood or dangerous, shall be punishable with fine which may extend to two hundred rupees, and with further fine which may extend to forty rupees for every day after the first during which the offence is proved to have been persisted in.

Soliciting for purposes of prostitution.

**138.** Whoever, in any street or public place within the limits of the municipality, loiters for the purpose of prostitution, or importunes any person to the commission of sexual immorality, shall be punishable with fine which may extend to fifty rupees :

Provided that no Court shall take cognizance of an offence under this section except on the complaint of the person importuned, or of a police-officer not below the rank of a Sub-Inspector and specially authorized in this behalf in writing by the Deputy Commissioner or by the committee, or of an officer of the committee specially authorized in this behalf in writing by the Deputy Commissioner.



139. Whoever disobeys any lawful direction given by public notice under the powers conferred by Chapter VI, or any written notice lawfully issued under the powers so conferred, or fails to comply with the conditions subject to which any permission was given to him under those powers, shall, where the disobedience or omission is not an offence punishable under any other section, be punishable with fine which may extend to fifty rupees, and, in the case of a continuing breach, with further fine which may extend to five rupees for every day after the first during which the breach is proved to have been persisted in :

Provided that, where the notice fixes a time within which a certain act is to be done and no time is specified in this Act, it shall rest with the Magistrate to determine whether the time so fixed was a reasonable time within the meaning of this Act.

140. Any prosecution for an offence punishable under section 130 or section 137 or section 139, where the order which has been disobeyed is appealable, shall, when the Magistrate learns that an appeal has been instituted from the order which has been disobeyed, be suspended pending the decision of the appeal, and, if the order is set aside on appeal, disobedience thereto shall not be deemed an offence against the section.

## CHAPTER VIII.

### EXTINCTION AND PREVENTION OF FIRE.

141. For the prevention and extinction of fire the committee may establish and maintain a fire-brigade and may provide any implements, machinery or means of communicating intelligence which the committee may think necessary for the efficient discharge of their duties by the brigade.

142. (1) On the occasion of a fire within the limits of a municipality any Magistrate, the secretary of the committee, any member of the committee, any member of a fire-brigade maintained by the committee then and there directing the operations of men belonging to the brigade, and, if directed so to do by a Magistrate or the secretary or a member of committee, any police-officer above the rank of constable, may—

- (a) remove or order the removal of any person who by his presence interferes with or impedes the operations for extinguishing the fire or for saving life or property ;
- (b) close any street or passage in or near which any fire is burning ;
- (c) for the purpose of extinguishing the fire, break into or through or pull down or cause to be broken into or through or pulled down or used for the passage of hoses or other appliances, any premises ;

- (d) cause mains and pipes to be shut off so as to give greater pressure of water in or near the place where the fire has occurred ;
- (e) call on the persons in charge of any fire-engine to render such assistance as may be possible ; and
- (f) generally, take such measures as may appear necessary for the preservation of life or property.

(2) No persons shall be liable to pay compensation for any act done by him in good faith under sub-section (1).

(3) Any damage done in the exercise of a power conferred or a duty imposed by this section shall be deemed to be damaged by fire within the meaning of any policy of insurance against fire.

Powers subject to prescribed regulations, etc. Operation of Chapter.

143. The powers conferred by section 142 shall be subject to such regulations, conditions and restrictions as may be prescribed.

144. This Chapter shall not take effect in any municipality until it has been specially applied<sup>1</sup> thereto by the Local Government at the request of the committee.

## CHAPTER IX.

### CONTROL.

Control by Commissioner or Deputy Commissioner.

145. The Commissioner or the Deputy Commissioner, not being a member of the committee, may—

- (a) enter upon and inspect, or cause to be entered upon and inspected, any immoveable property situate within the limits of his division or district and occupied by any committee or joint committee, or any work in progress within those limits under the direction of a committee or joint committee ;
- (b) by order in writing, call for and inspect any book or document in the possession or under the control of any committee or joint committee having authority within those limits ;
- (c) by order in writing, require any such committee or joint committee to furnish such statements, accounts, reports and copies of documents relating to the proceedings or duties of the committee or joint committee as he may think fit to call for ; and

<sup>1</sup> For the application of Chapter VIII under s. 144 to certain Municipalities, see C. P. Local Rules and orders.

It has been applied to the Nagpur, Jubbulpore, Hoshangabad, Khandwa and Burhanpur Municipalities.

- (d) record, for the consideration of any such committee or joint committee, any observations which he may think proper in regard to the proceedings or duties of the committee.

146. (1) The Commissioner or the Deputy Commissioner may, by order in writing, suspend within the limits of the division or district, as the case may be, the execution of any resolution or order of a committee or joint committee, or prohibit the doing within those limits of any act which is about to be done, or is being done, in pursuance of or under cover of this Act, if in his opinion, the resolution, order or act is in excess of the powers conferred by law, or the execution of the resolution or order or the doing of the act is likely to lead to a breach of the peace, or to cause injury or annoyance to the public or to any class or body of persons.

Power to suspend action under Act.

(2) Where a Commissioner or Deputy Commissioner makes any order under this section, he shall forthwith forward a copy thereof, with a statement of his reasons for making it, to the Local Government, which may thereupon rescind the order, or direct that it continue in force with or without modification, permanently or for such period as it thinks fit.

147. (1) In cases of emergency the Deputy Commissioner may provide for the execution of any work or the doing of any act which a committee is empowered to execute or do, and the immediate execution or doing of which is in his opinion necessary for the service or safety of the public, and may direct that the expense of executing the work or doing the act shall be forthwith paid by the committee.

Extraordinary powers of Deputy Commissioner in cases of emergency.

(2) Where the expense is not so paid, the Deputy Commissioner may make an order directing the person having the custody of the balance of the municipal fund to pay the expense, or as much thereof as is from time to time possible, from the balance, in priority to any or all other charges against the same.

(3) The Deputy Commissioner shall forthwith report to the Commissioner every case in which he uses the powers conferred on him by this section.

148. (1) Where at any time it appears to the Local Government that a committee has made default in performing any duty imposed on it by or under this or any other Act, the Local Government may, by order in writing, fix a period for the performance of that duty.

Powers of Local Government in case of default of committee.

(2) Where that duty is not performed within the period so fixed, the Local Government may appoint the Deputy Commissioner to perform it, and may direct that the expense of performing it shall be paid, within such time as the Local Government may fix, to the Deputy Commissioner by the committee.

(3) Where the expense is not so paid, the Deputy Commissioner, with the previous sanction of the Local Government, may make an order directing the person having the custody of the balance of the municipal fund to pay the expense, or so much thereof as is, from time to time, possible from the balance, in priority to any or all other charges against the same.

Power of  
Local Gov-  
ernment to  
supersede  
committee  
in case of  
incompe-  
tency,  
persistent  
default or  
abuse of  
powers.

149. (1) Where at any time it appears to the Local Government that a committee is not competent to perform, or persistently makes default in the performance of, its duties under this or any other Act for the time being in force, or exceeds or abuses its powers, the Local Government may, <sup>1</sup> \*  
\* \* \* \* \* by an order published, with the reasons for making it, in the local official Gazette, declare the committee to be incompetent or in default, or to have exceeded or abused its powers, as the case may be, and supersede it for a period to be specified in the order.

(2) Where a committee is so superseded, the following consequences shall ensue, namely :—

- (a) all members of the committee shall, as from the date of the order, vacate their offices as such members ;
- (b) all powers and duties of the committee may, during the period of supersession, be exercised and performed by such person or persons as the Local Government appoints in that behalf ;
- (c) all property vested in the committee shall, during the period of supersession, vest in His Majesty.

(3) On the expiration of the period of supersession specified in the orders, the committee shall be re-constituted and the persons who vacated their offices under sub-section (2), clause (a), shall not be deemed disqualified for being members.

Power of  
Local Gov-  
ernment to  
frame forms  
and make  
rules.

150. (1) The Local Government may frame forms for any proceedings of a committee for which it considers that forms should be provided, and may make rules,<sup>2</sup> consistent with this Act, to carry out the purposes and object thereof, for the guidance of committees and public officers generally.

(2) In particular and without prejudice to the generality of the foregoing power, such rules <sup>2</sup> may make provision—

- (a) for the collection of taxes imposed under this Act ;
- (b) as to the election or appointment and the term of office of presidents, vice-presidents and members of committees ;

<sup>1</sup> In s. 149 the words " with the previous sanction of the Governor-General in Council " were omitted by the Decentralization Act, 1914 (IV of 1914).

<sup>2</sup> For notifications publishing rules made under s. 150 for various municipalities, see C. P. Local Rules and Orders.

- (c) as to the division of municipalities into wards or of the inhabitants into classes, or both, the number of representatives to be appointed for each ward or class and the manner of their appointment ; and as to the qualification of electors and of candidates for election ;
- (d) as to the registration of electors, the nomination of candidates, the time of election, the mode of recording votes and generally for regulating all matters connected with the system of representation and election ;
- (e) as to the appointment, promotion, suspension, reduction, punishment and dismissal of the servants of committees ;
- (f) as to the intermediate office or offices (if any) through which correspondence between committees and the Local Government or its officers, and representations addressed under this Act to the Local Government, are to pass ;
- (g) as to the accounts to be kept by committees, as to the manner in which such accounts are to be audited and published, and as to the power of the auditors in respect of disallowance and surcharge ;
- (h) as to preparation of estimates of income and expenditure of committees, and as to the authority by whom, and the conditions subject to which, such estimates may be sanctioned, and as to the sanction (if any) to be required before committees incur any expenditure ;
- (i) as to the fees to be levied on processes issued by Magistrates under section 44 ;
- (j) as to the language in which the proceedings and correspondence of committees are to be conducted and recorded and as to the returns, statements and reports to be submitted by committees ;
- (k) as to the powers to be exercised by members of a fire-brigade and others on the occasion of a fire in a municipality ; and
- (l) for the regulation of proceedings of persons empowered to accept composition for offences committed or alleged to have been committed against this Act or any rules or by-laws made thereunder.

151. In all matters connected with this Act the Local Government shall have and exercise over Commissioners and Deputy Commissioners, and Commissioners shall have and exercise over Deputy Commissioners, the same authority and control as they respectively have and exercise over them in the general and revenue administration.

General powers of Local Government and Commissioner.

## CHAPTER X.

## SUPPLEMENTAL.

*Notices.*

Authenti-  
cation, ser-  
vice and  
validity of  
notices.

152. (1) Every notice issued by a committee under this Act shall be in writing and shall be sufficiently authenticated by the signature of the president, vice-president or secretary, and may be served by being delivered to the person to whom it is addressed, or by being left at his usual place of abode or business with some adult male member or servant of his family, or, where it cannot be so served, may be posted on some conspicuous part of his usual place of abode or business.

(2) Where the usual place of abode or business of the person to whom the notice is addressed is not within the limits of the municipality, the notice may be served by posting it in a registered cover addressed to his usual place of abode.

(3) Where the usual place of abode or business of the owner of any property is not known, every such notice addressed to him as such owner may be served on the occupier.

(4) Where the usual place of abode or business of the occupier of any property is not known, every such notice addressed to him as such occupier may be served by posting it on some conspicuous part of the property.

(5) No notice issued by the committee under this Act shall be invalid for defect of form.

Execution of  
acts required  
to be done  
by any  
notice.

153. (1) Where any notice issued by a committee under this Act requires any act to be done for which no time is fixed by this Act, the notice shall fix a reasonable time for doing the same.

(2) Where it is provided that any such notice should be given to the owner or occupier of any land or building, and the owner and occupier are different persons, such notice shall be given to the one of them primarily liable to comply with such notice, and in case of doubt to both of them :

• Provided that in any such case, where there is no owner resident within the municipality, the delivery of such notice to the occupier shall be sufficient.

(3) Where the terms of any such notice have not been complied with, the committee may, after not less than six hours' notice, cause the act to be done by its officers.

Made of  
giving notice  
to owner or  
occupier of  
property.

154. Where any notice is under this Act to be given to, or served on, the owner or occupier of any property and he is unknown, it may be given or served—

(a) by delivering a written notice to some person on the property, or, where there is no person on the property to whom the notice can be

delivered, by fixing it on some conspicuous part of the property ;  
or

- (b) by putting into the post a prepaid letter containing a written notice, and addressed by the description of the "owner" or "occupier" of the property (naming it) in respect of which the notice is given, without further name or description.

155 Every public notice given by a committee under this Act shall be published by proclamation or in the prescribed <sup>1</sup> manner. Publication of public notices.

*Miscellaneous.*

156. (1) Where the owner or occupier of property is required under this Act by the committee to execute any work and makes default in complying with the requisition, and the committee executes the work, the committee may recover the cost of the work from the person in default. Recovery of costs of execution.

(2) Where the person in default is the owner, the committee may, by way of additional remedy, recover the whole or any part of the cost from the occupier, and in such case the occupier may deduct any sum paid by him under this sub-section from the rent due or from time to time accruing due from him to the owner of the property in respect of which the payment is made or may otherwise recover such sum from the owner.

(3) An occupier shall not be required to pay under sub-section (2) any greater sum than the amount of rent which is for the time being due from him to the owner, or which, after demand for payment of the money payable by him to the committee and notice not to pay rent without first deducting the amount so demanded, becomes payable by him to the owner, unless he refuses on application duly made to him by the committee truly to disclose the amount of his rent and the name and address of the person to whom it is payable ; but the burden of proof that the sum so demanded by the committee from the occupier exceeds the rent which was due at the time of the demand, or which has since accrued due, shall lie on the occupier.

(4) All money recoverable by a committee under this section may be recovered either by suit, or, on application to a Magistrate having jurisdiction within the limits of the municipality, by distress and sale of the moveable property of the person from whom the money is recoverable, and, where it is payable by the owner of property, it shall, until it is paid, be a charge on the property.

(5) Nothing in any contract between an owner and occupier shall affect any right conferred on an occupier by this section.

<sup>1</sup> For notifications under s. 155 publishing rules for the publication of minutes and public notices of Municipal Committees, see the C. F. Local Rules and Orders.

Compensation out of municipal fund.

157. (1) The committee may make compensation out of the municipal fund to any person sustaining any damage by reason of the exercise of any power vested in the committee, its officers or servants, under this Act, and shall, subject to the other provisions of this Act, make such compensation where the person sustaining the damage was not himself in default in the matter in respect of which the power was exercised.

(2) Where any dispute arises touching the amount of any compensation which the committee is required by this Act to pay for injury to any building or land, it shall be settled in such manner as the parties may agree, or in default of agreement, in the manner provided by the <sup>1</sup> Land Acquisition Act, I of 1894. 1894, sections 3, 8 to 34, 45 to 47, and 50 to 52, so far as they can be made applicable.

Powers and duties of police in respect of offences against Act and assistance to municipal authorities.

158. (1) Every police-officer employed within the limits of the municipality shall give immediate information to the committee of any offence committed against this Act or the rules or by-laws thereunder, and shall be bound to assist all members, officers and servants of the committee in the exercise of their lawful authority.

(2) Any such police-officer, and, in the absence of a police-officer, any officer, of the committee empowered in this behalf by the general or special order <sup>2</sup> of the Local Government, may arrest any person committing in his view any offence punishable under sections 115 to 120—

(a) where the name and address of the person are unknown to him, and

(b) where the person declines to give his name and address or there is reason to doubt the accuracy of the name and address given.

(3) A person arrested under this section may be detained until his name and address are correctly ascertained :

Provided that no person so arrested shall be detained longer than is necessary for bringing him before a Magistrate unless an order of a Magistrate for his detention is obtained.

Initiation of prosecutions.

159. (1) No Court shall take cognizance of an offence punishable only under this Act or a rule or by-law made thereunder except on the complaint of the Deputy Commissioner or of the committee or of some sub-committee or person authorized either generally or specially by the Deputy Commissioner or the committee in this behalf.

(2) For the purposes of this section, the committee may, except where otherwise expressly provided, authorize any sub-committee or person to prosecute either generally in regard to all offences against this Act and the

<sup>1</sup> General Acts, Vol. IV.

<sup>2</sup> Certain Officers of the Nagpur Municipality were empowered under s. 158 (2) to arrest persons committing in their view offences under ss. 115 to 120 of the Act—see Notfn. No. 1356, dated 17th October 1907, C. P. Gazette, Pt. III, p. 259. See also C. P. Local Rules and Orders.



rules or by-laws thereunder or specially in regard only to specified offences or offences of a specified class.

(3) Where the person authorized is president, vice-president, *ex-officio* member, secretary, engineer or health-officer of the committee, the authority may be given by virtue of office; but in the case of other persons the authority shall be personal.

(4) The authority shall in all cases be in writing and may at any time by resolution be cancelled by the committee.

160. The Local Government may empower<sup>1</sup> any committee or its president, vice-president, secretary, health-officer or engineer, or any member appointed by office, or any sub-committee, to accept from any person, against whom a reasonable suspicion exists that he has committed an offence against this Act or any rule or by-law made thereunder, a sum of money by way of composition for such offence. Power to compound offences.

(2) On payment of such sum of money, the suspected person, if in custody, shall be discharged, and no further proceedings shall be taken against him in regard to the offence or alleged offence so compounded.

(3) Sums paid by way of composition under this section shall be credited to the Municipal fund.

(4) Power under sub-section (1) to accept composition for alleged offences may be given either generally in regard to all offences under this Act and the rules and by-laws thereunder, or particularly in regard only to specified offences or offences of a specified class, and may at any time be withdrawn by the Local Government.

161. (1) Any person aggrieved by any order made by a committee under the powers vested in it by sections 75, 86, 87, 88, 90, 96 or 100 may appeal within thirty days from the date thereof to the Deputy Commissioner; and no such order shall be liable to be called in question otherwise than by such appeal: Appeals against certain orders of committee.

Provided that, where the Deputy Commissioner is himself a member of the committee, the appeal shall lie to the Commissioner or to such other officer as may be empowered by the Local Government in this behalf.

(2) The appellate authority may, for sufficient cause, extend the period hereby allowed for appeal.

(3) The order appealed from shall not be confirmed, set aside or modified, until the appellant and the committee have had a reasonable opportunity of being heard.

<sup>1</sup> For notifications under s. 160 empowering Presidents and Vice-Presidents of Municipalities and specified officers of various municipalities to compound offences, see the C. P. Local Rules and Orders.

No appeal to lie against any order unless expressly provided for in the Act; and all orders made in appeal to be final.

**162.** An appeal shall not lie against any order made under this Act except where express provision has been made in the Act for appeal from such order; and every order made in appeal under this Act shall be final.

Suspension of proceedings and prosecutions when appeals from certain orders preferred.

**163.** Where any such order as is specified in sections 75, 86, 87, 88, 90, 96 or 100 is subject to appeal, and an appeal from such order has been preferred all proceedings to enforce such order and all prosecutions for any breach thereof may, by order of the appellate authority, be suspended pending the decision of the appeal, and, where such order is set aside on appeal, disobedience thereto shall not be deemed to be an offence.

Procedure for making rules or by-laws.

**164.** The power to make rules or by-laws under sections 102, 105 or 150 is subject to the condition of the rules or by-laws being made after previous publication.

Power to make rules regulating conservancy of reservoir and catchment area.

**165.** (1) Where the supply of water in a municipality is derived from a reservoir situate beyond the limits of the municipality, the Local Government may make rules<sup>1</sup>—

- (a) prohibiting the doing in the reservoir, or in its vicinity or in or upon the catchment area thereof, any act by which the quantity or purity of the water or the safety of the reservoir may be impaired;
- (b) regulating generally the conservancy of the reservoir and of the catchment area; and
- (c) determining the compensation, if any, to be paid by the committee to any person affected by a rule made under clause (a) or clause (b).

(2) The Local Government may direct that the breach of any rule under sub-section (1) shall be punishable with fine which may extend to two hundred rupees.

Saving of Act XI of 1879.

**166.** Nothing in this Act shall affect the <sup>2</sup>Local Authorities Loan Act, XI of 1879.

Brothels.

**167.** On receiving information that a house within the limits of a municipality is used as a brothel, or by disorderly persons of any description, in proximity to any school or college, or to the annoyance of the respectable inhabitants of the vicinity, or that any such house is used as a brothel in the immediate neighbourhood of a cantonment, any Magistrate of the first class.

<sup>1</sup> For notifications publishing rules made under s. 165 for certain Municipalities, see the C. P. Local Rules and Orders.

<sup>2</sup> See now the Local Authorities Loans Act, 1914 (IX of 1914).

having as such jurisdiction in the place where the house is situated, may summon the owner or tenant of the house and, on being satisfied that the house is so used, and that it is a source of annoyance or offence to the neighbours, or that it is in the immediate neighbourhood of a cantonment, may order the owner or tenant to discontinue such use of it; and, if the owner or tenant fails to comply with such order within five days, may impose upon him a fine not exceeding twenty-five rupees for every day thereafter that the house shall be so used :

Provided that action under this section shall be taken only—

- (a) with the sanction or by the order of the Deputy Commissioner ; or
- (b) on the complaint of three or more inhabitants of the municipality resident in the immediate vicinity of the house to which the complaint refers.

(2) This section shall not take effect in any municipality until it has been specially applied <sup>1</sup> thereto by the Local Government.

168. (1) Where the circumstances of any municipality are such that, in the opinion of the Local Government, any of the provisions of this Act are unsuited thereto, the Local Government may, by notification <sup>2</sup> in the local official Gazette, except the municipality from the operation of those provisions ; and thereupon those provisions shall not apply to the municipality until again applied thereto by a like notification.

Power to except municipality from provisions of Act unsuited thereto.

(2) While the exception remains in force, the Local Government may make rules for the guidance of the committee and public officers in respect of the matters excepted from the operation of the said provisions.

## CHAPTER XI.

### SMALL TOWNS.

169. (1) The Local Government may, by notification <sup>3</sup> in the local official Gazette, declare that, with respect to some or all of the matters upon which a municipal fund may be expended under section 50, improved arrangements are required within a specified local area which, nevertheless, it is not expedient to constitute as a municipality.

Constitution of notified areas.

(2) A local area in regard to which a notification has been issued under sub-section (1) is hereinafter called a “ notified area ”.

<sup>1</sup> For notifications applying s. 167 to various municipalities, see the C. P. Local Rules and Orders.

<sup>2</sup> Under s. 168, the Pachmarhi Municipality was excepted from the operation of the provisions of s. 8 (2) of the Act—see Notfn. No. 8880, dated 18th November 1897, in C. P. Gazette, Part III, p. 363. See also the C. P. Local Rules and Orders.

<sup>3</sup> For notifications constituting “ notified areas ” under s. 169 and defining their limits, see the C. P. Local Rules and Orders.

(3) No local area shall be made a notified area if—

- (a) it contains more than ten thousand inhabitants according to the returns of the most recent official census, or
- (b) it includes merely an agricultural village or villages, and does not contain a town or bazar.

Power for  
Local Gov-  
ernment to  
impose taxa-  
tion and  
regulate  
expenditure  
of proceeds  
thereof.

170. (1) The Local Government may<sup>1</sup>—

- (a) impose in any notified area any tax which could be imposed there by the committee if the notified area were a municipality;
- (b) apply or adapt to the notified area, for the assessment and recovery of any tax imposed under clause (a), any of the provisions of this Act, or of any rules for the time being in force with respect to the assessment and recovery of any tax imposed under this Act;
- (c) arrange for the due expenditure of the proceeds of taxes imposed under clause (a), and for the preparation and maintenance of proper accounts;
- (d) appoint a committee of one or more persons for the purposes of clauses (b) and (c); and
- (e) extend to any notified area the provisions of any section of this Act,

subject to such restrictions and modifications (if any) as the Local Government may think fit.

(2) The proceeds of any tax levied in any notified area under this section shall be expended only in same manner in which the municipal fund of such notified area might be expended if the notified area were a municipality.

Application  
of Act to  
notified  
areas.

171. Where any section of this Act is for the time being extended to a notified area, the committee appointed for such notified area under section 170 shall be deemed to be a committee, and the notified area a municipality, within the meaning of the section so extended.

Effect of  
cancellation  
of notifica-  
tion issued  
under section  
169.

172. Where the Local Government cancels a notification published under section 169, the unexpended proceeds of any taxes levied in the local area to which the notification refers, under section 170, shall be applied for the benefit of the inhabitants of such area in such manner as the Local Government may think fit.

## CHAPTER XII.

### REPEALS.

Repeals.

173. (1) The Central Provinces Municipal Act, 1889, and so much of XIII of 188 the <sup>2</sup>Repealing and Amending Act, 1891, as relates thereto, are hereby XII of 1891 repealed.

<sup>1</sup> For notifications publishing orders made under s. 170 for various notified areas, see the C. P. Local Rules and Orders.

<sup>2</sup> General Acts, Vol. IV.

(2) But all municipalities declared, committees established, limits defined, appointments, rules, orders and by-laws made, notifications and notices issued, taxes and rates imposed, contracts entered into and suits instituted under the said Act, or under any enactment thereby repealed, shall, so far as may be, be deemed to have been respectively declared, established, defined, made, issued, imposed, entered into and instituted under this Act.

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ACT No. II OF 1907.<sup>1</sup>

[ THE CENTRAL PROVINCES BOILER INSPECTION ACT, 1907.]

[ *1st March, 1907.*]

An Act to provide for the inspection of Steam-boilers and Prime-movers and for their management by competent Engineers in the Central Provinces.

WHEREAS it is expedient to provide for the inspection of steam-boilers and prime-movers and for their management by competent Engineers in the Central Provinces; It is hereby enacted as follows :—

1. (7) This Act may be called the Central Provinces Boiler Inspection Act, 1907. Short title,  
extent and  
savings.

(2) It extends to the territories for the time being administered by the Chief Commissioner of the Central Provinces.

(3) Nothing in this Act shall be deemed to apply to—

(a) any locomotive engine, boiler or prime-mover used upon or appertaining to any railway, within the meaning of that word as defined in section 3, clause (4), of the<sup>2</sup> Indian Railways Act, 1890 ;  
or

(b) any boiler or prime-mover used exclusively for domestic purposes at atmospheric pressure ; or

(c) any boiler or prime-mover used upon any vehicle or class of vehicles which the Chief Commissioner may,<sup>3</sup> by notification in the Local official Gazette, specify in this behalf.

2. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(a) “ boiler ” includes any cylinder or vessel used for generating steam under pressure, and any steam-chest or other apparatus closely attached thereto :

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<sup>1</sup> For Statement of Objects and Reasons, see *Gazette of India*, 1906, Part V, p. 59 ; for Proceedings in Council, see *ibid*, Part VI, p. 129 and *ibid*, 1907, Part VI, p. 19.

<sup>2</sup> General Act, Vol. IV.

<sup>3</sup> For notifications under s. 1 (3) (c), see the Central Provinces Local Rules and Orders.

- (b) "prime-mover" includes any steam-engine, steam-hammer, fly-wheel, first driving shaft, or pulley attached to such engine, and every appurtenance necessary for the safe and efficient working of a prime-mover :
- (c) "owner" includes any person using any boiler as agent of, or on hire from, the owner thereof : and
- (d) "prescribed" means prescribed by rules under this Act.

*Inspection and licensing of Boilers.*

Appointment  
of inspectors.

3. The Chief Commissioner may appoint<sup>1</sup> one or more duly qualified persons to be inspectors for the purposes of this Act, and may fix the local extent of each such inspector's duties.

Use of boiler  
by owner  
without  
license  
prohibited.

4. The owner of a boiler shall not use the same, or permit the same to be used,—

- (a) except under and in accordance with the conditions of a license duly granted and in force under this Act ; and
- (b) unless the boiler is under the direct and immediate management and charge of an engineer holding a certificate of competency under this Act declaring that he is competent to manage or be in charge of a boiler of such capacity or kind.

*Explanation.*—A person employed to manage and be in charge of not more than two sets of boilers belonging to the same owner, and so situated that no one of them is more than a thousand feet apart from any other of them, shall be deemed to be employed in direct and immediate management and charge of all such boilers.

Registration  
and number-  
ing of  
boilers.

5. (1) The owner of any boiler who desires to use the same shall, if it is unregistered, cause it to be registered.

(2) The owner of a boiler may give notice in writing to the inspector that he desires to have the same registered, whereupon the inspector shall register such boiler and shall allot to it a number (to be called the registry number) corresponding to the number of the entry concerning it in the register of boilers.

(3) Such number shall be communicated to the owner and shall, within such reasonable period as the inspector may direct, be permanently marked upon the boiler by the owner thereof so as to be plainly visible and in such manner as the Chief Commissioner may prescribe.

Procedure on  
application  
for boiler  
license.

6. (1) The owner of a boiler which has been registered under section 5, or in respect to which the notice prescribed by sub-section (2) of that section has been given, shall, if he desires to use the same and does not

<sup>1</sup> For orders appointing Inspectors under s. 2, see the Central Provinces Local Rules and Orders.

possess a license in respect of the same granted under this Act and then in force, make an application for a license to the District Magistrate, and the District Magistrate shall cause an examination of the boiler and of every appurtenance closely attached thereto to be made by an inspector with the least possible delay and within twenty days after the receipt of such application, and shall inform the owner of the date on which the said examination will take place.

(2) Every person making an application under this section shall simultaneously pay the prescribed fees for the examination.

7. (1) The owner or person in charge of any boiler to be examined under section 6 shall—

Duty of owners to afford facilities for examination of and information regarding boiler.

(a) afford to the inspector all reasonable facilities for such examination, and all such information as may reasonably be required by him ;

(b) previously arrange that—

(i) the boiler shall be empty and cool, and shall be cleaned inside and outside ;

(ii) fire-flues shall be swept ;

(iii) fire-bars and fire-bridges shall be removed ;

(iv) blow-off and other cocks shall be cleared for the purpose of examination ;

(c) if required by the inspector, cause any brick-work or masonry in contact with the boiler to be removed ;

(d) during the examination, keep the boiler effectively disconnected from any steam or hot-water communication with any other boiler.

(2) The provision as to disconnection contained in clause (d) shall extend to every case in which a person is sent, or with the owner's assent goes, into a boiler for any purpose connected therewith.

8. (1) If the inspector is satisfied that a boiler examined under section 6 and the appurtenances closely attached thereto are in good condition, and if the registry number of the boiler is properly marked thereon in accordance with sub-section (3) of section 5, he shall forthwith give to the owner a license to that effect in the form of, and containing the particulars specified in, Schedule A.

Grant and renewal of boiler licenses.

(2) Every license so granted shall be renewed by the inspector from time to time, if he is satisfied, after re-examining the boiler and the appurtenances closely attached thereto under the provisions of section 6, that the same are in good condition.

(3) Every original or renewed license granted under this section shall be granted for so long a period as it shall appear to the inspector probable that

the boiler and the appurtenances closely attached thereto will remain in good condition :

Provided that no license shall remain in force for a period exceeding twelve months.

Appeal from  
refusal to  
grant boiler  
license.

9. If an inspector refuses to give a license or a renewed license to the owner of a boiler, or refuses to give the same for the full period or pressure applied for, he shall give to such owner within forty-eight hours his reasons for such refusal in writing, and any owner deeming himself aggrieved by the refusal may, within one month from the date of its communication to him, lodge an appeal with the District Magistrate.

Disposal of  
appeals.

10. The District Magistrate shall appoint one or more assessors to aid him in disposing of the appeal, and shall, within ten days of its receipt, publicly inquire into and determine such appeal.

(2) The District Magistrate may either reject the appeal, or grant the owner a license for such period, not exceeding twelve months, and for such pressure, as he thinks fit.

(3) If the decision of the District Magistrate is not in accordance with the opinion of the assessor or a majority of the assessors, an appeal from it shall lie to the Commissioner, who shall thereupon proceed to inquire into and determine the appeal, with or without the aid of assessors as he may think fit, in accordance with the provisions of sub-section (2), and the decision of the Commissioner on such appeal shall be final.

(4) In other cases the decision of the District Magistrate shall be final.

Award of  
costs in  
certain  
cases.

11. (1) If the District Magistrate or Commissioner is of opinion that an appeal is unfounded or frivolous, he may award any sum not exceeding fifty rupees to be paid by the owner as costs.

(2) Any sum so awarded shall be recoverable from the owner as if it were an arrear of land-revenue.

Revocation  
of boiler  
licenses.

12. The District Magistrate may, after such inquiry as he may consider just, revoke any license granted under section 8 or section 10—

(a) if any fee, lawfully due under this Act, is not paid after the same has been duly demanded ; or

(b) if there is reason to believe that such license has been fraudulently obtained or erroneously granted, or has been granted without sufficient examination ; or

(c) if there is reason to believe that, since the granting of such license, the boiler in respect whereof it was granted has sustained injury or has ceased to be in good condition.

Powers of  
inspector in  
connection  
with exami-

31. (1) Any inspector may, at any time between sunrise and sunset on any day during the period for which a license may have been granted under section 8 or section 10, examine any boiler, whether at work or not, for which



such license has been granted, in order to ascertain whether such boiler is in good condition, and whether any cause exists for revoking the said license.

in nation of  
licensed  
boilers.

(2) Any inspector may order the working of a boiler which he desires to inspect under sub-section (1) to be stopped only when that shall in his opinion be indispensable for the proper examination of the boiler.

(3) The reasons for any such stoppage shall be given in writing by the inspector to the owner, on the owner's demand, concurrently with the order for stoppage, and the owner shall thereon become subject to the provisions of section 7.

14. If, at any time during the period for which a license under section 8 or section 10 has been granted, any structural alteration or renewal is made in any part of the boiler to which such license relates, the owner of such boiler shall give notice in writing of such alteration before it is completed to the District Magistrate or to such person as may be appointed by him in this behalf.

Duty of  
owner to  
report altera-  
tions in any  
part of  
licensed  
boiler.

15. (1) Every owner or person in charge of a boiler shall report in writing to the District Magistrate, or to such person as may be appointed by him in this behalf, every accident to the boiler, or to any apparatus attached thereto which is calculated to weaken the strength of such boiler or to render it liable to explode.

Procedure on  
accident to  
boiler.

(2) Every such report shall be made within twelve hours of the occurrence of the accident, and shall contain a true description of the nature of the accident and of the injury thereby caused sufficient to enable the person to whom it is made to judge of the gravity of the accident.

(3) The owner or person in charge of the boiler shall be bound to answer truly, to the best of his knowledge and ability, every question put to him in writing by the person to whom the report is made as to the cause, nature and extent of the accident.

(4) The District Magistrate, or any person generally or specially authorised by him in this behalf, may, after visiting the scene of any such accident as aforesaid, by an order in writing, direct that the use of the boiler be discontinued until it has been examined and certified as fit for use by an inspector.

16. (1) The owner of any boiler who has obtained a license therefor shall at all reasonable times during the period for which such license is in force be bound to produce the same when called upon to do so by the District Magistrate, or by any person generally or specially authorised in writing by the District Magistrate to demand its production.

Duty of  
owner to  
produce boiler  
license.

(2) A person who becomes owner of a boiler during the period for which a license therefor is in force shall be entitled to receive the license from the preceding owner and shall be subject to the provisions of sub-section (1).

*Grant of certificates to Engineers.*

Grant of  
engineers'  
certificates  
of compe-  
tency.

17. Engineers' certificates of competency declaring that the person named therein is competent to manage or be in charge of a boiler of such capacity or kind as is specified therein, may be granted and may be cancelled or suspended in accordance with such rules as may be prescribed by the Chief Commissioner in this behalf.

*Penalties and Procedure.*

Penalty for  
non-compli-  
ance by  
owner with  
requirements  
of sections 7,  
14, 15 and 16.

18. Any owner of a boiler who—

- (a) fails, as required by section 7, to furnish an inspector with necessary information or to make the necessary dispositions for facilitating examination;
- (b) fails to give notice, as required by section 14, of any structural alteration or renewal thereof;
- (c) refuses or neglects to produce a license when duly called upon so to do under section 16; and
- (d) every owner or person in charge of a boiler who fails to report, as required by section 15, any accident of the kind mentioned in the section,

shall, for every such omission, refusal or neglect, be punishable with fine which may extend to one hundred rupees.

Penalty on  
owner using  
boiler with-  
out license or  
certificated  
engineer  
or otherwise  
contrary to  
Act.

19. Any owner of a boiler who—

- (a) uses the same, or permits it to be used, without a license duly obtained and in force in respect thereof;
- (b) uses the same, or permits it to be used, at any time except whilst he has in his employ, in direct and immediate management and charge thereof, an engineer holding a certificate of competency under this Act declaring that he is competent to manage or be in charge of a boiler of such capacity or kind;
- (c) uses the same, or permits it to be used, in contravention of an order for discontinuing its use made under section 15, sub-section (f), or at a higher pressure than that allowed by any license in force in respect thereof;

shall be punishable with fine which may extend to five hundred rupees and in the case of a continuing offence, with an additional fine which may extend to one hundred rupees for every day after the first in regard to which he is convicted of having persisted in the offence.

Penalty for  
tampering  
with registry  
number of a  
boiler.

20. Whoever removes, alters, defaces, renders invisible or otherwise tampers with a registry number marked on a boiler shall for every such act be punishable with fine which may extend to five hundred rupees.

21. Whoever fraudulently marks upon a boiler a registry number which has not been duly allotted to it under this Act shall be punishable with imprisonment which may extend to two years, or with fine, or with both.

Penalty for fraudulently marking a registry number on a boiler.

22. Whoever, being required to deposit his certificate in accordance with the provisions of any rule made under section 25, sub-section (1), clause (c), refuses or omits to do so, shall be punishable with fine which may extend to five hundred rupees.

Penalty for refusing or omitting to deposit engineers' certificate in accordance with rules under section 25 (1) (c).

23. No Court inferior to that of a Magistrate of the first class shall have jurisdiction to try any person charged with an offence against this Act.

Cognizance of offences against Act.

24. No charge shall be brought against any person of any offence punishable under this Act except within six months after the commission of the offence, nor shall any such charge be brought except with the sanction or under the direction of the District Magistrate.

Charges within what period to be brought.

### Rules.

25. (1) The Chief Commissioner may make rules<sup>1</sup> consistent with this Act for all or any of the following purposes, namely :—

Power to make rules.

- (a) for settling the duties and emoluments of inspectors appointed under this Act, and regulating the control to be exercised by District Magistrates over such inspectors ;
- (b) for fixing the fees to be levied for the inspection of boilers under sections 6 and 15 at such rates not exceeding those specified in Schedule B as the Chief Commissioner may think fit ;
- (c) prescribing the procedure to be followed in the hearing of appeals under section 10, the emoluments or fees to be received by assessors appointed under that section, and regulating the holding of inquiries under section 12 ;
- (d) providing for the grant of engineers' certificates of competency, and in particular prescribing—
  - (i) the cases in which certificates may be granted without, and those in which they may be granted only after examination ;
  - (ii) the duties and emoluments of examiners, and the conduct of examinations ;
  - (iii) the qualifications to be required of, and the fees to be paid by, candidates for examination, and applicants, for certificates without examination respectively ;

<sup>1</sup> For rules made by the Chief Commissioner, under s. 25 regulating the inspection of boilers and prime-movers, see the Central Provinces Local Rules and Orders.

- (iv) the different classes of certificates which may be granted, and the nature of the boilers which each such class of certificate shall cover ;
- (v) the form of certificates and the authority by which they may be granted ; and
- (vi) the mode in which a record of certificates granted shall be kept and the cases in which, and the fees on payment of which, duplicate certificates may be granted ;
- (c) providing for the cancellation or suspension of engineers' certificates of competency, and in particular for—
  - (i) the procedure to be followed in inquiries into allegations of incompetence, drunkenness, misconduct or negligence on the part of holders of such certificates ; and
  - (ii) the deposit of such certificates by the holders of the same, when so required, pending the result of such inquiries and the action to be taken on their failure to comply with such requisitions ; and
- (f) generally for carrying out the purposes of this Act.

(2) The power to make rules under this Act is subject to the condition of the rules being made after previous publication.

(3) All rules framed under this Act shall be published in the local official Gazette, and shall thereupon have effect as if enacted in this Act.

#### *Miscellaneous.*

26. All fees, costs and penalties levied under this Act shall be disposed of in such manner as the Chief Commissioner may direct.

27. (1) The Chief Commissioner may, by notification in the local official Gazette, apply so much of this Act as relates to the taking out and grant of licenses for, and the inspection of boilers to prime-movers generally, or to prime-movers of any particular class in any place or district in which this Act is for the time being in force.

(2) During any such period as any notification under sub-section (1) is in force in any place or district, the provision of this Act thereby made applicable to prime-movers shall be read and understood in such place or district as if the word "boiler" included the words "prime-mover" wherever used therein.

Disposal of  
sums levied  
under Act.  
Certain  
provision of  
Act  
applicable  
to prime-  
movers.

## SCHEDULE A.

(See section 8.)

## FORM OF INSPECTOR'S LICENSE.

Name of owner.	Registry No. and description of boiler, and age.	Power.	When and where made.	When and where last repaired.	Time for which this certificate is to be in force.	Maximum pressure at which the boiler may be worked.	REMARKS.

I, the undersigned, certify that I have examined the above-named boiler and to the best of my judgment the boiler as shown in the above statement, and all its necessary appurtenances are in good condition and the Registry number is properly marked thereon.

A. B.,  
Inspector.

## SCHEDULE B.

[See section 25 (1) (b).]

## MAXIMUM RATES OF FEES LEVIABLE FOR INSPECTION OF BOILERS UNDER SECTIONS 6 AND 15.

	Rs.
(1) For the inspection of each boiler not exceeding 10 horse-power nominal . . . . .	15
(2) Ditto, ditto exceeding 10, but not exceeding 20 ditto . . . . .	20
(3) Ditto, ditto exceeding 20, but not exceeding 30 ditto . . . . .	30
(4) Ditto, ditto exceeding 30, but not exceeding 50 ditto . . . . .	40
(5) Ditto, ditto exceeding 50 ditto . . . . .	50

ACT No. IV OF 1907.<sup>1</sup>

[THE REPEALING AND AMENDING (RATES AND CESSES) ACT, 1907.]

[20th March, 1907.]

## An Act to repeal and amend certain Enactments relating to abolished rates and cesses.

WHEREAS certain rates and cesses leviable in the territories specified in the Schedule have been abolished and it is therefore expedient to repeal or amend the enactments specified in the said Schedule; it is hereby enacted as follows:—

Short title.

1. This Act may be called the Repealing and Amending (Rates and Cesses) Act, 1907.

Enactments in Schedule repealed or modified.

2. The enactments specified in the Schedule shall be repealed or modified to the extent and in the manner mentioned in the third column thereof.

## THE SCHEDULE.

Number, year and short title.	Sections.	Extent of repeal or modification.
*                      *                      *                      *                      *2		
<i>E.—The Chief Commissionership of the Central Provinces.</i>		
Act X of 1878 (The Central Provinces Additional Rates Act, 1878).	...	The whole Act to be repealed.
<sup>3</sup> Act XVII of 1878 (The Northern India Ferries Act, 1878).	17	For sub-clause (ii) of clause (c) the following to be substituted:—  “(ii) be applied to any local works likely to promote the public health, comfort or convenience.”
<sup>4</sup> Act XVIII of 1881 (The Central Provinces Land-revenue Act, 1881).	77	In clause (a) the word “patwari” to be omitted.
	138	In clause (b) the word “patwaris” to be omitted.
	141	In clause (a) the words “village-patwari and” to be omitted.

<sup>1</sup> For Statement of Objects and Reasons, see *Gazette of India*, 1906, Part V, p. 57; for Proceedings in Council, see *ibid*, Part VI, p. 128, and *ibid*, 1907, Part VI, p. 31.

<sup>2</sup> The omitted portions of this Schedule relate to other Provinces of British India and are not therefore reproduced here.

<sup>3</sup> *Supra*, p. 67.

<sup>4</sup> Act XVIII of 1881 has been repealed and re-enacted by the Central Provinces Land-revenue Act, 1917 (C. P. Act II of 1917), *infra*, p. 391.

THE SCHEDULE—*concl'd.*

Number, year and short title.	Section.	Extent of repeal or modification.
Act XVIII of 1881— <i>cont'd.</i>	143A	In clause (c) the words "patwari and" to be omitted; and for the words "they are" the words "he is" to be substituted.
	146A	The whole section to be repealed.
*	*	*
*	*	* 1

ACT No. XI OF 1908.<sup>2</sup>

[ THE ASSAM LABOUR AND EMIGRATION (AMENDMENT) ACT, 1908.]

[ 11th September, 1908.]

An Act to amend the Assam Labour and Emigration Act,  
1901.

1901. WHEREAS it is expedient to amend the Assam Labour and Emigration Act, 1901; it is hereby enacted as follows:—

1. This Act may be called the Assam Labour and Emigration (Amendment) Act, 1908. Short title.

1901. <sup>3</sup> 2. For section 91 of the <sup>4</sup>Assam Labour and Emigration Act, 1901, the following shall be substituted, namely:— Substitution of new section for section 91, Act VI, 1901.

[*Supra*, p. 205.]

3. For section 218 of the said Act the following shall be substituted, namely:— Substitution of new section for section 218, Act VI of 1901.

[*Supra*, p. 242.]

<sup>1</sup> The omitted portions of this Schedule relate to other Provinces of British India and are not therefore reproduced here.

<sup>2</sup> For Statement of Objects and Reasons, see *Gazette of India*, 1908, Part V, p. 283; for Proceedings in Council, see *ibid.*, Part VI, p. 142 and *ibid.*, 150.

<sup>3</sup> S. 2 has been virtually amended by Act VIII of 1915, *infra*.

<sup>4</sup> *Supra*, p. 205.

ACT No. VIII OF 1915.<sup>1</sup>

[THE ASSAM LABOUR AND EMIGRATION (AMENDMENT) ACT, 1915.]

[25th March, 1915.]

## An Act further to amend the Assam Labour and Emigration Act, 1901.

WHEREAS it is expedient further to amend the Assam Labour and Emigration Act, 1901; it is hereby enacted as follows :—

Short title  
and com-  
mencement.

1. (1) This Act may be called the Assam Labour and Emigration (Amendment) Act, 1915.

(2) It shall come into force at once, with the exception of section 7, which shall come into force on such<sup>2</sup> day as the Governor General in Council may, by notification in the *Gazette of India*, appoint in this behalf.

Amendment  
of section 2  
(1), Act VI,  
1901.

2. In section 2 (1) of the Assam Labour and Emigration Act, 1901, VI of 1901 (hereinafter called the said Act), the following amendments shall be made, namely :—

(a) After clause (c) the following clause shall be added, namely :—

[*Supra*, p. 191.]

(b) To clause (e) the following *Explanation* shall be added, namely :—

[*Supra*, p. 191.]

(c) After clause (n) the following clause shall be added, namely :—

[*Supra*, p. 192.]

(d) After clause (t) the following shall be added, namely :—

[*Supra*, p. 192.]

Amendment  
of section 64,<sup>2</sup>  
Act VI,  
1901.

3. For sub-section (1) of section 64 of the said Act, the following sub-sections shall be substituted, namely :—

[*Supra*, p. 198.]

and the existing sub-section (2) of the same section shall be renumbered (f).

Amendment  
of section 67,  
Act VI, 1901.

4. In section 67 (1) of the said Act there shall be substituted for the words "the employer," the words "his employer or the association or firm which has applied in respect of such local agent under section 64, sub-section (2)" and for the words from "or if" to the end of the sub-section, the following words, namely :—

[*Supra*, p. 198.]

<sup>1</sup> For Statement of Objects and Reasons, see *Gazette of India*, 1915, Part V, p. 30; and for Proceedings in Council, see *ibid*, 1915, Part VI, pp. 185 and 340.

<sup>2</sup> Section 7 came into force on the 1st July, 1915, see *Gazette of India*, 1915, Part I, p. 790.

<sup>3</sup> *Supra*, p. 190.



5. After section 116 of the said Act the following provisions shall be inserted, namely :—

Insertion of new Chapter VI-A in Act VI, 1901.

[*Supra*, p. 211.]

6. (1) The following portions of the said Act are hereby repealed, namely, section 90; in section 91, the words “notwithstanding anything contained in section 90,” and in clause (b) thereof, the words “or holding permits granted and countersigned under section 90,” and the words “or of that section, as the case may be;” and clause (a) of section 174.

Repeal of section 90, Act VI, 1901. Consequential repeals and amendments.

(2) In section 92 of the said Act for the words and figures “sections 90 and 91” there shall be substituted the word and figures “section 91.”

17. (1) The portions of the said Act specified in the Schedule to this Act are hereby repealed to the extent mentioned in the second column of the Schedule.

Repeal of Chapter III, Act VI, 1901. Consequential repeals and amendments.

(2) The following amendments shall be made in the said Act, namely :—

(i) In the heading to Chapter V, and in section 92 there shall be substituted for the words and figures “Chapters III and IV” the word and figures “Chapter IV.”

(ii) In section 93 (2) there shall be substituted for the words and figures “Chapters II to IV inclusive,” the words and figures “Chapter II or IV” and for the words and figures “Chapters VI to X” the words and figures “Chapter VI (except Chapter VI-A) to X.”

(iii) For section 172 of the said Act, the following section shall be substituted, namely :—

[*Supra*, p. 232.]

## THE SCHEDULE.

[*See section 7 (1).*]

### PORTIONS OF ACT VI OF 1901 REPEALED.

1	2
Chapter or Section.	Extent of repeal.
S. 2 (1)	Clause (c). In clause (d) the words “contractor, sub-contractor, recruiter.” In clause (l) the words and figures “section 34 or.” Clauses (o) and (s).

<sup>1</sup>See s. 1 (2) *supra*.

THE SCHEDULE—*contd.*

1	2
Chapter or Section.	Extent of repeal.
S. 12 (1)	Clause (a). In clause (c) the words from "or if the labourer" to the end of the clause.
S. 12 (2)	The whole.
S. 12 (3)	The whole.
Chapter III	The whole.
S. 65	The whole.
S. 91	Clause (a).
S. 163 (2)	In clause (b) the words "contractors or." Clause (f). In clauses (m) to (r) the word "contractors," wherever it occurs.
S. 163 (3)	The word "contractor" in both places where it occurs.
Ss. 165 to 168	The whole.
S. 171	The words and figures "section 55 or."
*	* * * *
S. 175	The whole.

<sup>1</sup> The words and figures "s. 174, clause (a)" were repealed by the Repealing and Amending Act, 1915 (Act XI of 1915).

## PART III.

# ACTS OF THE CHIEF COMMISSIONER OF THE CENTRAL PROVINCES IN COUNCIL.<sup>1</sup>

## THE CENTRAL PROVINCES GENERAL CLAUSES ACT, 1914.

[C. P. ACT No. I OF 1914.]

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<sup>1</sup> A Legislative Council for the Central Provinces was constituted on November 10<sup>th</sup>, 1913, under the provisions of s. 3 of the Government of India Act, 1912 (2 and 3 Geo. 5, c. 6) — see Proclamations published in Gazette of India, November, 1913, Pt. 1, pp. 1068 and 1069.

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## CENTRAL PROVINCES ACT No. I of 1914.

## [THE CENTRAL PROVINCES GENERAL CLAUSES ACT, 1914.]

An Act for facilitating the interpretation of Central Provinces Acts, and for shortening the language used therein.

WHEREAS it is expedient to facilitate the interpretation of Central Provinces Acts, and to shorten the language used therein ;

It is hereby enacted as follows :

## PRELIMINARY.

Short title  
and com-  
mencement.

1. (1) This Act may be called the Central Provinces General Clauses Act, 1914.

(2) It shall come into force at once.

## DEFINITIONS.

Definitions.

2. In this Act, in all Central Provinces Acts made after the commencement of this Act, unless there is anything repugnant in the subject or context,—

“Abet,”

(1) “abet,” with its grammatical variations and cognate expressions, shall have the same meaning as in the <sup>2</sup> Indian Penal Code ;

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<sup>1</sup> For Statement of Objects, and Reasons, see Central Provinces Gazette 1914, Pt. VII, p. 1; and for Proceedings in Council, see *ibid* 1914, Pt. VIII, pp. 6 and 15.

A Legislative Council for the Central Provinces was constituted on November 10th, 1913, under the provisions of s. 3 of the Government of India Act, 1912 (2 & 3, Geo. 5, c. 6)—see proclamations published in Gazette of India, November, 1913, Pt. I, pp. 1068, 1069.

<sup>2</sup> Genl. Acts, Vol. I.

(2) "act," used with reference to an offence or a civil wrong, shall "Act." include a series of acts; and words which refer to acts done extend also to illegal omissions.

(3) "affidavit" shall include affirmation and declaration in the case "Affidavit." of persons by law allowed to affirm or declare instead of swearing;

(4) "barrister" shall mean a barrister of England or Ireland or a member "Barrister." of the Faculty of Advocates in Scotland;

(5) "British India" shall mean all territories and places within His "British India." Majesty's dominions which are for the time being governed by His Majesty through the Governor General of India, or through any Governor or other officer subordinate to the Governor General of India.

(6) "British possession" shall mean any part of His Majesty's dominions, "British possession." exclusive of the United Kingdom, and, where parts of these dominions are under both a central and a local legislature, all parts under the central legislature shall, for the purposes of this definition, be deemed to be one British possession;

(7) "Central Provinces" shall mean the territories within British India "Central Provinces." for the time being under the administration of the Chief Commissioner of the Central Provinces;

(8) "Central Provinces Act" shall mean an Act made by the Chief Com- "Central Provinces Act" missioner of the Central Provinces in Council under the Indian Councils Acts, 1861 to 1909;<sup>1</sup>

(9) "Chapter" shall mean a Chapter of the Central Provinces Act or "Chapter." Regulation in which the word occurs;

(10) "Collector" shall mean the Chief officer in charge of the revenue ad- "Collector." ministration of a district;

(11) "Colony" shall mean any part of His Majesty's dominions exclusive "Colony." of the British Islands and of British India, and, where parts of those dominions are under both a central and a local legislature, all parts under the central legislature shall, for the purposes of this definition, be deemed to be one colony;

(12) "commencement," used with reference to an Act, shall mean the "Commencement." day on which the Act comes into force;

(13) "Commissioner" shall mean the chief officer in charge of the "Commissioner." revenue administration of a division;

(14) "Consular Officer" shall include consul-general, consul, vice-consul, "Consular Officer." consular agent, pro-consul and any person for the time being authorised to perform the duties of consul-general, consul, vice-consul or consular agent;

(15) "District Judge" shall mean the Judge of a principal Civil Court of "District Judge." original jurisdiction in a district;

<sup>1</sup> See now ss. 70 to 83 of the Government of India Act, 1915 (5 and 6 Geo. 5, c. 61),

14 and 25  
Act, C. 67.  
12 and 33  
Act, C. 98.  
14 and 35  
Act, C. 34.  
17 and 38  
Act, C. 91.  
15 and 56  
Act, C. 14.  
1 Edw. 7, C.  
20.  
1 Edw. 7, C.  
6.

- "Document." (16) "document" shall include any matter written, expressed or described upon any substance by means of letters, figures or marks, or by more than one of those means, which is intended to be used, or which may be used, for the purpose of recording that matter ;
- "Enactment." (17) "enactment" shall include any provision contained in any Central Provinces Act or Regulation ;
- "Father." (18) "father," in the case of anyone whose personal law permits adoption, shall include an adoptive father ;
- "Financial Commissioner." (19) "Financial Commissioner" shall mean the Financial Commissioner of the Central Provinces for the time being ;
- "Financial year." (20) "financial year" shall mean the year commencing on the first day of April ;
- "Gazette." (21) "Gazette" shall mean the *Central Provinces Gazette* ;
- "Good faith." (22) a thing shall be deemed to be done in "good faith" where it is in fact done honestly, whether it is done negligently or not ;
- "Government." (23) "Government" or "the Government" shall include the Local Government as well as the Government of India ;
- "Government of India." (24) "Government of India" shall mean the Governor General in Council or, during the absence of the Governor General from his Council, the President in Council, or the Governor General alone, as regards the powers which may be lawfully exercised by them or him, respectively ;
- "His Majesty" or "the King-Emperor." (25) "His Majesty" or "the King-Emperor" shall include His successors ;
- "Immoveable property." (26) "immoveable property" shall include land, benefits to arise out of land, and things attached to the earth, or permanently fastened to any thing attached to the earth ;
- "Imprisonment." (27) "imprisonment" shall mean imprisonment of either description as defined in the<sup>1</sup> Indian Penal Code ;
- "India." (28) "India" shall mean British India, together with any territories of any Native Prince or Chief under the suzerainty of His Majesty exercised through the Governor General of India or through any Governor or other officers subordinate to the Governor General of India ;
- "Local authority." (29) "local authority" shall mean a Municipal Committee, District Council or other authority legally entitled to, or entrusted by the Government with, the control or management of a municipal or local fund ;
- "Local Government." (30) "Local Government" shall mean the Chief Commissioner of the Central Provinces ;

XLV of 1860.

<sup>1</sup> Genl. Acts, Vol. I.

1898. (31) "Magistrate" shall include every person exercising all or any of the "Magistrate." powers of a Magistrate under the <sup>1</sup> Code of Criminal Procedure for the time being in force ;
- (32) "month" shall mean a month reckoned according to the British "Month." calendar ;
- (33) "moveable property" shall mean property of every description, except "Moveable immovable property ;" property."
- (34) "notification" shall mean a notification published in the Gazette ; "Notifica- tion."
- (35) "oath" shall include affirmation and declaration in the case of "Oath." persons by law allowed to affirm or declare instead of swearing ;
- (36) "offence" shall mean any act or omission made punishable by any "Offence." law for the time being in force ;
- (37) "Part" shall mean a Part of the Central Provinces Act or Regula- "Part." tion in which the word occurs ;
- (38) "person" shall include any company or association or body of indivi- "Person." duals, whether incorporated or not ;
- (39) "Province" shall mean the territories for the time being adminis- "Province." tered by any Local Government ;
- (40) "public nuisance" shall mean a public nuisance as defined in the "Public nuisance." <sup>2</sup> Indian Penal Code ;
- (41) "registered," used with reference to a document, shall mean "Registered." registered in British India under the law <sup>3</sup> for the time being in force, for the registration of documents ;
- 1834 Vict., (42) "Regulation" shall mean a Regulation made under the Government "Regulation." of India Act, 1870 ; <sup>4</sup>
- (43) "rule" shall mean a rule made in exercise of a power conferred by "Rule." any enactment, and shall include a regulation made as a rule under any enactment ;
- (44) "Schedule" shall mean a Schedule to the Central Provinces Act or "Schedule." Regulation in which the word occurs ;
- of 1874. (45) "Scheduled District" shall mean a "Scheduled District" as "Scheduled District." defined in the Scheduled Districts Act, 1874 ; <sup>5</sup>
- (46) "section" shall mean a section of the Central Provinces Act or "Section." Regulation in which the word occurs ;
- (47) "sign," with its grammatical variations and cognate expressions, "Sign." shall, with reference to a person who is unable to write his name, include "mark," with its grammatical variations and cognate expressions ;

<sup>1</sup> Genl. Acts, Vol. V.<sup>2</sup> Genl. Acts, Vol. I.<sup>3</sup> See the Indian Registration Act, 1908 (XVI of 1908), in Genl. Acts, Vol. VI.<sup>4</sup> See now s. 71 of the Government of India Act, 1915 (5 & 6 Geo. 5, c. 61).<sup>5</sup> Genl. Acts, Vol. II.

- “ Son.” (48) “ son,” in the case of any one whose personal law permits adoption, shall include an adopted son ;
- “ Sub-section.” (49) “ sub-section ” shall mean a sub-section of the section in which the word occurs ;
- “ Swear.” (50) “ swear,” with its grammatical variations and cognate expressions, shall include affirming and declaring in the case of persons by law allowed to affirm or declare instead of swearing ;
- “ Vessel.” (51) “ vessel ” shall include any ship or boat or any other description of vessel used in navigation ;
- “ Will.” (52) “ will ” shall include a codicil and every writing making a voluntary posthumous disposition of property ;
- “ Writing.” (53) expressions referring to “ writing ” shall be construed as including references to printing, lithography, photography and other modes of representing or reproducing words in a visible form ; and
- “ Year.” (54) “ year ” shall mean a year reckoned according to the British calendar.

#### GENERAL RULES OF CONSTRUCTION.

Coming into operation of Central Provinces Acts.

3. (1) Where any Central Provinces Act is not expressed to come into operation on a particular day, then it shall come into operation on the day on which the assent of the Governor General thereto is first published in the Gazette in pursuance of sections 40 and 48 of the Indian Councils Act, 24 & 25 1861. <sup>1</sup> C. 67.

(2) Unless the contrary is expressed, a Central Provinces Act shall be construed as coming into operation immediately on the expiration of the day preceding its commencement.

Printing of date on which Act is published after having received the assent of the Governor General.

4. In this Act and in every Central Provinces Act, the date of such publication as is mentioned in section 3, sub-section (1), shall be printed above the title of the Act, and shall form part of the Act.

Effect of repeal.

5. Where any Central Provinces Act repeals any enactment hitherto made or hereafter to be made, then, unless a different intention appears, the repeal shall not—

- (a) revive anything not in force or existing at the time at which the repeal takes effect ; or
- (b) affect the previous operation of any enactment so repealed or anything duly done or suffered thereunder ; or
- (c) affect any right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed ; or

<sup>1</sup> See now s. 81 of the Government of India Act, 1915 (5 & 6 Geo. 5, c. 61).



- (d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any enactment so repealed ; or
- (e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid ;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if the repealing Act had not been passed.

6. In any Central Provinces Act it shall be necessary, for the purpose of Revival of  
reviving, either wholly or partially, any enactment wholly or partially repealed, repealed  
expressly to state that purpose. enactment.

7. Where any Central Provinces Act repeals and re-enacts, with or with- Construction  
out modification, any provision of a former enactment, then references in any of references  
other enactment or in any instrument to the provision so repealed shall unless to repealed  
a different intention appears be construed as references to the provision so enactments.  
re-enacted.

8. In any Central Provinces Act it shall be sufficient for the purpose of Commence-  
excluding the first in a series of days or any other period of time, to use the ment and  
word "from," and, for the purpose of including the last in a series of days or termination  
or any other period of time to use the word "to". of time.

9. Where, by any Central Provinces Act, any act or proceeding is directed Computation  
or allowed to be done or taken in any Court or office on a certain day or with- of time.  
in a prescribed period, then, if the Court or office is closed on that day or the  
last day of the prescribed period, the act or proceeding shall be considered as  
done or taken in due time, if it is done or taken on the next day afterwards  
on which the Court or office is opened :

Provided that nothing in this section shall apply to any act or proceeding  
of 1908. to which the <sup>1</sup> Indian Limitation Act, 1908, applies.

10. In the measurement of any distance for the purposes of any Central Measurement  
Provinces Act made after the commencement of this Act, that distance shall, of distances.  
unless a different intention appears, be measured in a straight line on a hori-  
zontal plane.

11. Where, by any enactment now in force or hereafter to be in force, any Duty to be  
duty or Customs or Excise, or in the nature thereof, is leviable on any given taken *pro*  
quantity, by weight, measure of value of any goods or merchandize, then a *rata* in  
like duty is leviable according to the same rate on any greater or less enactments.  
quantity.

Gender and  
number.

12. In all Central Provinces Acts, unless there is anything repugnant in the subject or context,—

(1) words importing the masculine gender shall be taken to include females ; and

(2) words in the singular shall include the plural, and *vice versa*.

#### POWERS AND FUNCTIONARIES.

Powers  
conferred in  
the Local  
Government  
to be exercis-  
able from  
time to time.

13. Where, by any Central Provinces Act, any power is conferred on the Local Government, then that power may be exercised, from time to time, as occasion requires.

Power to  
appoint to  
include power  
to appoint  
*ex-officio*.

14. Where, by any Central Provinces Act, a power to appoint any person to fill any office or execute any function is conferred, then, unless it is otherwise expressly provided, any such appointment may be made either by name or by virtue of office.

Power to  
appoint to  
include power  
to suspend  
or dismiss.

15. Where, by any Central Provinces Act, a power to make any appointment is conferred, then, unless a different intention appears, the authority having power to make the appointment shall also have power to suspend or dismiss any person appointed by it in exercise of that power.

Substitution  
of function-  
aries.

16. In any Central Provinces Act it shall be sufficient, for the purpose of indicating the application of a law to every person or number of persons for the time being executing the functions of an office, to mention the official title of the officer at present executing the functions, or that of the officer by whom the functions are commonly executed.

Successors.

17. In any Central Provinces Act it shall be sufficient, for the purpose of indicating the relation of a law to the successors of any functionaries or of corporations having perpetual succession, to express its relation to the functionaries or corporations.

Official  
chiefs and  
subordinates.

18. In any Central Provinces Act it shall be sufficient, for the purpose of expressing that a law relative to the chief or superior of an office shall apply to the deputies or subordinates lawfully performing the duties of that office in the place of their superior, to prescribe the duty of the superior.

#### PROVISIONS AS TO ORDERS, RULES, ETC., MADE UNDER ENACTMENTS.

Construction  
of orders, etc.,  
issued under  
Central  
Provinces  
Acts.

19. Where, by any Central Provinces Act, a power to issue any order, scheme, rule, bye-law, notification or form is conferred, then expressions used in the order, scheme, rule, bye-law, notification or form, if it is made after the commencement of this Act, shall, unless there is anything repugnant in the subject or context, have the same respective meanings as in the Act conferring the power.

20. Where, by any Central Provinces Act, a power to issue orders, rules, bye-laws or notifications is conferred, then that power include a power exercisable in the like manner and subject to the like sanction and conditions (if any), to add to, amend, vary or rescind any orders, rules, bye-laws or notifications so issued.

Power to make to include power to add to, amend, vary or rescind orders, etc.

21. Where, by any Central Provinces Act, which is not to come into operation on the day on which it is first published in the Gazette after having received the assent of the Governor General, a power is conferred to make rules or bye-laws, or to issue orders with respect to the application of the Act, or with respect to the establishment of any court or office, or the appointment of any judge or officer thereunder, or with respect to the person by whom, or the time when, or the place where, or the manner in which, or the fees for which, anything is to be done under the Act, then that power may be exercised at any time after the Act has been published as aforesaid, but rules, bye-laws or orders so made or issued shall not take effect till the commencement of the Act.

Making of rules or bye-laws and issuing of orders between publication and commencement Central Provinces Act.

22. Where, by any Central Provinces Act, a power to make rules or bye-laws is expressed to be given subject to the condition of the rules or bye-laws being made after previous publication then the following provisions shall apply, namely—

Provisions applicable to making of rules of bye-laws after previous publication.

- (1) the authority having power to make the rules or bye-laws shall, before making them, publish a draft of the proposed rules or bye-laws for the information of persons likely to be affected thereby ;
- (2) the publication shall be made in such manner as that authority deems to be sufficient, or, if the condition with respect to previous publication so requires, in such manner as the Local Government prescribes ;
- (3) there shall be published with the draft a notice specifying a date on or after which the draft will be taken into consideration ;
- (4) the authority having power to make the rules or bye-laws, and, where the rules or bye-laws are to be made with the sanction, approval or concurrence of another authority, that authority also shall consider any objection or suggestion which may be received by the authority having power to make the rules or bye-laws from any person with respect to the draft before the date so specified ;
- (5) the publication in the Gazette of a rule or bye-law purporting to have been made in exercise of a power to make rules or bye-laws after previous publication shall be conclusive proof that the rule or bye-law has been duly made.

23. Where any enactment is, after the commencement of this Act, repealed and re-enacted by a Central Provinces Act with or without modification,

Continuation of orders, etc., issued

under enact-  
ments repeal-  
ed and  
re-enacted.

cation, then, unless it is otherwise expressly provided, any appointment, order, scheme, rule, bye-law, notification or form made or issued under the repealed enactment shall, so far as it is not inconsistent with the provisions re-enacted, continue in force, and be deemed to have been made or issued under the provisions so re-enacted, unless and until it is superseded by any appointment, order, scheme, rule, bye-law, notification or form made or issued under the provisions so re-enacted.

#### MISCELLANEOUS.

Recovery of  
fines.

24. Sections 63 to 70 of the <sup>1</sup> Indian Penal Code, and the provisions <sup>XLV</sup> of the <sup>2</sup> Code of Criminal Procedure for the time being in force in relation, <sup>V</sup> of 18 to the issue and the execution of warrants for the levy of fines, shall apply to all fines imposed under any Central Provinces Act or any rule or bye-law made under any Central Provinces Act, unless the Act, rule or bye-law contains an express provision to the contrary.

Provision as  
to offences  
punishable  
under two or  
more enact-  
ments.

25. Where an act or omission constitutes an offence under two or more enactments, then the offender shall be liable to be prosecuted and punished under either or any of those enactments, but shall not be liable to be punished twice for the same offence.

Meaning of  
service by  
post.

26. Where any Central Provinces Act authorizes or requires any document to be served by post, whether the expression "serve" or either of the expressions "give" or "send" or any other expression is used, then, unless a different intention appears, the service shall be deemed to be effected by properly addressing, prepaying and posting by registered post a letter containing the document, and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post.

Citation of  
enactments.

27. (1) In any Central Provinces Act, and in any rule, bye-law, instrument or document made under, or with reference to, any Central Provinces Act, any enactment may be cited by reference to the title or short title (if any) conferred thereon or by reference to the number and year thereof, and any provision in an enactment may be cited by reference to the section or sub-section of the enactment in which the provision is contained.

(2) In this Act, and in any Central Provinces Act made after the commencement of this Act, a description or citation of a portion of another enactment shall, unless a different intention appears, be construed as including the word, section or other part mentioned or referred to as forming the beginning and as forming the end of the portion comprised in the description or citation.

<sup>1</sup> Genl. Acts, Vol. I.

<sup>2</sup> Genl. Acts, Vol. V.

CENTRAL PROVINCES ACT No. I of 1915.<sup>1</sup>[THE CENTRAL PROVINCES COURT OF WARDS (AMENDMENT) ACT,  
1915.]An Act to amend the Central Provinces Court of Wards Act,  
1899 (XXIV of 1899.)

1872. of Act, 1899,<sup>2</sup> and whereas the sanction of the Governor General has been given  
to the amendment of the said Act and of the Indian Contract Act, 1872.<sup>3</sup>

It is hereby enacted as follows :—

1. This Act may be called the Central Provinces Court of Wards (Amend- Short title,  
ment) Act, 1915.

1872. of 2. (1) In sub-section (1), section 31 of the <sup>2</sup>Central Provinces Court Amendment  
of Wards Act, 1899, after the words “pecuniary liability” the words “nor of Section 31  
shall his property be liable under section 68 of the <sup>3</sup>Indian Contract Provinces  
Act, 1872,” shall be inserted. Court of  
Wards Act,  
1899.

1872. (2) In the same sub-section, after the words “any debt contracted,” the  
words “or discharge any liability arising under section 68 of the <sup>3</sup>Indian  
Contract Act, 1872,” shall be inserted.

(3) To the same sub-section, the following shall be added, namely :—

[*Supra*, p. 178.]

## THE CENTRAL PROVINCES EXCISE ACT, 1915.

(C. P. ACT No. II of 1915.)

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<sup>1</sup> For Statement of Objects and Reasons, see Central Provinces Gazette, 1914, Pt. VII, p. 26  
for Report of Select Committee, see *ibid*, 1915, Pt. VII, p. 1; and for Proceedings in Council,  
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<sup>2</sup> *Supra*, p. 178.<sup>3</sup> Genl. Acts, Vol. II.

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Enactments repealed.

CENTRAL PROVINCES ACT No. II of 1915.<sup>1</sup>

[THE CENTRAL PROVINCES EXCISE ACT, 1915].

An Act to consolidate and amend the Excise Law in the  
Central Provinces.

WHEREAS it is expedient to consolidate and amend the law in the Central Provinces relating to the import, export, transport, manufacture, sale and possession of intoxicating liquor and of intoxicating drugs ; and WHEREAS the previous sanction of the Governor General, required under section 5 of the 55 and 56  
<sup>2</sup>Indian Councils Act, 1892, has been obtained to the passing of this Act ; Vict., c. 1.

It is hereby enacted as follows : —

## CHAPTER I.

## PRELIMINARY.

1. (1) This Act may be called the Central Provinces Excise Act, 1915.
- (2) It extends in the first instance to the whole of the Central Provinces ;  
and

Short title,  
extent and  
commence-  
ment.

<sup>1</sup> For Statement of Objects and Reasons, *see* Central Provinces Gazette, 1914, Pt. VII, p. 25 ; for Report of Select Committee, *see ibid*, 1915, Pt. VII, p. 3 and for Proceedings in Council, *see ibid*, 1914, Pt. VIII, pp. 6 and 8 and *ibid* 1915, Pt. VIII, p. 19.

This Act repeals and re-enacts the Excise Act, 1896 (XII of 1896) — *see* the Schedule, *infra*. By virtue of s. 23 of the Central Provinces Genl. Clauses Act, 1914, *supra*, rules and orders made and issued under the repealed Act shall be deemed to have been made and issued under the present Act until they are superseded. For such rules and orders, *see* the Central Provinces Local Rules and Orders.

<sup>2</sup> See now s. 79 (2) of the Government of India Act, 1915 (5 and 6 Geo. 5, c. 81).



(3) It shall come into force on such date<sup>1</sup> as the Local Government may, by notification, direct.

2. In this Act, unless there is anything repugnant in the subject or con- Definitions.  
text,—

(1) "beer" includes ale, stout, porter and all other fermented liquors usually made from malt :

(2) to "bottle" means to transfer liquor from a cask or other vessel to a bottle, jar, flask or other similar receptacle for the purpose of sale, and bottling includes re-bottling :

(3) "Chief Revenue-authority" means the authority declared by the Local Government, subject to the control of the Governor General in Council, to be the Chief Revenue-authority for the purposes of this Act :

(4) "cocaine" includes coca leaves, any alkaloid or substance prepared from the coca plant (*Erythroxylum coca*) and any preparation or admixture of the above :

(5) "denatured" means rendered unfit for human consumption in such manner as may be prescribed by the Local Government in this behalf :

(6) "excisable article" means any liquor or intoxicating drug as defined by or under this Act :

(7) "Excise-officer" means a Collector or any officer or other person appointed or invested with powers under section 7 :

(8) "excise-revenue" means revenue derived or derivable from any duty, fee, tax, penalty payment (other than a fine imposed by a Court of law) or confiscation imposed or ordered under the provisions of this Act, or of any other law for the time being in force relating to liquor or intoxicating drugs :

(9) "export" means to take out of the province :

(10) "hemp-plant" means the plant known as *Cannabis sativa* :

(11) "import" means to bring into the province :

provided that import from Berar to the Central Provinces shall be deemed to be transport :

(12) "intoxicating drug" means—

(a) the leaves and flowering tops of the hemp plant and *ganja*, *bhang*, *churas* and every similar preparation made therefrom ;

(b) cocaine ;

(c) any other intoxicating drink or substance not included in the term 'liquor' which the Local Government may, by notification, specify in this behalf ; and

(d) every preparation or admixture of any article referred to in sub-clauses (a), (b) and (c) ;

<sup>1</sup> The Act was brought into force on the 1st April, 1916—see Central Provinces Gazette 1916, Pt. I, p. 255.

but does not include opium or anything which is included in " opium " as defined in the <sup>1</sup> Opium Act, 1878 :

I of 1878.

(13) " liquor " means intoxicating liquor, and includes spirits of wine, spirit, wine, *tari*, beer, all liquid consisting of or containing alcohol, and any substance which the Local Government may, by notification, declare to be liquor for the purposes of this Act :

(14) " manufacture " includes every process, whether natural or artificial, by which any excisable article is produced or prepared, and also redistillation and every process for the rectification, flavouring, blending or colouring of liquor :

(15) " place " includes house, building, shop, booth, tent, vessel, raft and vehicle :

(16) expressions referring to " sale " include any transfer otherwise than by way of gift :

(17) " spirit " means any liquor containing alcohol obtained by distillation whether it is denatured or not :

(18) " *tari* " means fermented or unfermented juice drawn from any kind of palm tree : and

(19) " transport " means to move from one place to another within the province.

Provision  
supplemental  
to the  
definition of  
"intoxicating  
drug."  
Power to  
declare what  
shall be  
deemed to be  
"country  
liquor" and  
"foreign  
liquor,"  
respectively.  
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of retail and  
wholesale  
sale.

3. The Local Government may, by notification, declare what shall be deemed to be *ganja*, *bhang*, or *charas*.

4. The Local Government, with the previous sanction of the Governor General in Council, may, by notification, declare what, for the purposes of this Act, or any portion thereof, shall be deemed to be "country liquor" and "foreign liquor," respectively.

5. (1) The Local Government may, by notification, declare with respect either to the whole province or to any specified local area, and as regards purchasers generally or any specified class of purchasers, and either generally or for any specified occasion, what quantity of any excisable article shall, for the purposes of this Act, be the limit of a retail sale.

(2) The sale of any excisable article in any quantity in excess of the quantity declared in respect thereof under sub-section (1) shall be deemed to be a sale by wholesale.

Saving of  
enactments.

6. Nothing contained in this Act shall affect the provisions of the <sup>1</sup>Sea VIII of 1878. Customs Act, 1878, or the <sup>2</sup>Indian Tariff Act, 1894 (except section 6 thereof), <sup>3</sup>VIII of 1894 or the <sup>3</sup>Cantonments Act, 1910, or any rule or order made thereunder.

XV of 1910.

<sup>1</sup> Genl. Acts, Vol. II.

<sup>2</sup> Genl. Acts, Vol. IV.

<sup>3</sup> Genl. Acts, Vol. VII.

## CHAPTER II.

## ESTABLISHMENT AND CONTROL.

7. The Local Government may, by notification, for the whole or for any specified part of the province,—

Establishment and powers thereof.

- (a) appoint an officer, hereinafter referred to as the Excise Commissioner, who, subject to such control (if any) as the Local Government may direct, shall superintend the administration of the Excise Department and the collection of the excise-revenue;
- (b) appoint any person other than the Collector to exercise all or any of the powers and to perform all or any of the duties conferred and imposed on a Collector by or under this Act, either concurrently with, or in subordination to, or in exclusion of, the Collector subject to such control as the Local Government may direct;
- (c) appoint officers of the Excise Department of such classes and with such designations, powers and duties as the Local Government may think fit;
- (d) order that all or any of the powers and duties assigned by or under this Act to any officer appointed under clause (c) shall be exercised and performed by any Government officer or any other person;
- (e) delegate to the Chief Revenue-authority or the Excise Commissioner all or any of its powers under this Act, except the power conferred by section 62 to make rules;
- (f) withdraw from any officer or person all or any of his powers under this Act; and
- (g) permit the delegation by the Chief Revenue-authority, the Excise Commissioner or the Collector to any person or class of persons specified in such notification, of any powers conferred or duties imposed upon it or him by or under this Act, or exercised or discharged by it or him in respect of the excise revenue under any other Act for the time being in force.

## CHAPTER III.

## IMPORT, EXPORT AND TRANSPORT.

8. The Local Government may, by notification,—

- (a) with the previous sanction of the Governor General in Council, prohibit, throughout the province or in any specified area thereof, the import or export of any excisable article;

Power to prohibit import, export or transport.

Restriction  
on import,  
export or  
transport.

(b) prohibit the transport of any excisable article.

9. Without the sanction of the Local Government no excisable article shall be imported, exported or transported, except—

(a) after payment of any duty of customs or excise to which it may be liable, or execution of a bond for such payment; and

(b) on compliance with such conditions as the Local Government may impose.

Requirement  
of pass for  
import,  
export or  
transport.

10. No excisable article exceeding such quantity as the Local Government may by notification prescribe, either generally or for any specified area, shall be imported, exported, or transported except under a pass issued, or deemed to be issued, under the provisions of this Act :

Provided that in the case of duty-paid foreign liquor such passes shall be dispensed with, unless the Local Government shall, by notification, otherwise direct with respect to any local area.

Passes for  
import,  
export or  
transport.

11. (1) Passes for the import, export or transport of excisable articles may be granted by the Collector :

Provided that passes for the import and export of such excisable articles as the Excise Commissioner may from time to time determine shall be granted only by the Excise Commissioner.

(2) Such passes may be either general for definite periods and kinds of excisable articles, or special for specified occasions and particular consignments only.

Passes issued  
by other  
authorities  
may be  
deemed  
passes  
granted  
under this  
Act.

12. The Excise Commissioner may, by general or special order, direct, subject to such conditions (if any) as he may impose, that a pass granted by any authority in India shall be deemed to be a pass for any purpose under this Act.

#### CHAPTER IV.

##### MANUFACTURE, POSSESSION AND SALE.

License  
required for  
manufacture,  
etc., of  
excisable  
articles.

13. (a) No excisable article shall be manufactured or collected ;

(b) no hemp plant or coca plant (*Erythroxylum coca*) shall be cultivated ;

(c) no *tari*-producing tree shall be tapped and no *tari* shall be drawn from any tree ;

(d) no liquor shall be bottled for sale ;

(e) no distillery or brewery shall be constructed or worked ; and

(f) no person shall use, keep or have in his possession any materials, still, utensil, implement or apparatus whatsoever for the purpose of manufacturing any excisable article other than *tari* ;

except under the authority and subject to the terms and conditions of a license granted in that behalf :

Provided that the Local Government may, by notification, declare that the provisions of this section shall not apply, in any area specified in this behalf, to the tapping of *turi*-producing trees, or to the drawing of *turi* subject to such conditions as it may prescribe.

14. The Excise Commissioner may—

- (a) establish a distillery in which spirit may be manufactured under a license granted under section 13 on such conditions as the Local Government may impose ;
- (b) discontinue any such distillery ;
- (c) license, on such conditions as the Local Government may impose, the construction and working of a distillery or brewery ;
- (d) establish or license a warehouse, wherein any excisable article may be deposited and kept without payment of duty, but subject to payment of such fees as the Local Government may direct ; and
- (e) discontinue any such warehouse.

Establishment or licensing of distilleries and warehouses.

15. Without the sanction of the Local Government no excisable article shall be removed from any distillery, brewery, warehouse, or other place of storage established or licensed under this Act unless the duty (if any) imposed under section 25 has been paid or a bond has been executed for the payment thereof.

Payment of duty on removal from distillery, brewery or place of storage.

16. (1) The Local Government may, by notification, prescribe a limit of quantity for the possession of any excisable article :

Possession of excisable articles generally.

Provided that different limits may be prescribed for different qualities of the same article.

(2) No person shall have in his possession any quantity of any excisable article in excess of the limit prescribed under sub-section (1), except under the authority and in accordance with the terms and conditions of—

- (a) a license for the manufacture, cultivation, collection, sale, or supply of such article, or
- (b) a pass for the import, export or transport of such article, or
- (c) a permit granted under this Act.
- (3) Sub-section (2) shall not apply to any foreign liquor—
  - (a) which is in the possession of any common carrier or warehouseman as such, or
  - (b) which is lawfully procured by and in the possession of any person for his *bona fide* private consumption and not for sale.

(4) Notwithstanding anything contained in the foregoing sub-sections, the Local Government may, by notification, prohibit the possession

by any person or class of persons, either in the province or in any specified area, of any excisable article, either absolutely, or subject to such conditions as it may prescribe.

License  
required for  
sale of  
excisable  
articles.

17. (1) No excisable article shall be sold except under the authority and subject to the terms and conditions of a license granted in that behalf :

Provided that—

- (a) a person having the right to the *tari* drawn from any trees may sell such *tari* without a license to a person licensed to manufacture or sell *tari* under this Act ;
- (b) a person licensed under section 13 to cultivate the hemp plant or coca plant (*Erythroxylum coca*) may sell without a license those portions of the plant from which the intoxicating drug is manufactured or produced to any person licensed under this Act to deal in the same, or to any officer whom the Excise Commissioner may prescribe ; and
- (c) nothing in this section shall apply to the sale of any foreign liquor lawfully procured by any person for his private use and sold by him or on his behalf or on behalf of his representatives in interest upon his quitting a station or after his decease.

(2) On such conditions as the Excise Commissioner may determine, a license for sale under the Excise Law for the time being in force in other parts of British India may be deemed to be a license granted in that behalf under this Act.

Power to  
grant lease of  
right to  
manufacture,  
etc.

18. (1) The Local Government may lease to any person, on such conditions and for such period as it may think fit, the right—

- (a) of manufacturing, or of supplying by wholesale, or of both, or
- (b) of selling by wholesale or by retail, or
- (c) of manufacturing or of supplying by wholesale, or of both, and of selling by retail

any country liquor or intoxicating drug within any specified area.

(2) The licensing authority may grant to a lessee under sub-section (1) a license in the terms of his lease ; and when there is no condition in the lease which prohibits sub-letting, may, on the application of the lessee, grant a license to any sub-lessee approved by such authority.

Lessee's  
permission to  
draw *tari*.

19. Where a right of manufacturing *tari* has been leased under section 18, the Local Government may declare that the written permission of the lessee to draw *tari* shall have the same force and effect as a license from the Collector for that purpose.

Manufacture  
and sale of  
liquor in

20. Within the limits of any Military Cantonment, and within such distance from those limits as the Local Government in any case may prescribe,

no license for the retail sale of liquor shall be granted, except with the knowledge and consent of the Commanding Officer.

Military  
Cantonments.

21. Every person who manufactures or sells any excisable article under a license granted under this Act shall be bound—

Duties of  
licensees with  
regard to  
measurement  
and testing.

- (a) to supply himself with such measures, weights and instruments as the Excise Commissioner may prescribe and to keep the same in good condition on the licensed premises ; and
- (b) on the requisition of any Excise-officer duly empowered in that behalf at any time to measure, weigh or test any excisable articles in his possession in such manner as the said Excise-officer may require.

22. (1) No person who is licensed to sell excisable articles for consumption on his premises shall, during the hours in which such premises are kept open for business, employ or permit to be employed, either with or without remuneration, any person under the age of fourteen years or under such age as may be notified in that behalf by the Local Government in any part of such premises in which such excisable article is consumed by the public.

Prohibition  
of employ-  
ment of  
persons under  
the age of  
fourteen  
years and of  
women.

(2) No person who is licensed to sell foreign liquor for consumption on his premises shall, without the previous permission in writing of the Excise Commissioner, during the hours in which such premises are kept open for business, employ or permit to be employed, either with or without remuneration, any woman in any part of such premises in which liquor is consumed by the public.

(3) Every permission granted under sub-section (2) shall be endorsed on the license and may be modified or withdrawn.

23. No person who is licensed to sell excisable articles shall sell or deliver any liquor or intoxicating drug to any person apparently under the age of fourteen years or under such age as may be notified in that behalf by the Local Government, whether for consumption by such person or by another person or whether for consumption on or off the premises of such vendor.

Prohibition  
of sale of  
liquor or  
intoxicating  
drug to  
persons under  
the age of  
fourteen  
years or  
under such  
age as may  
be notified in  
that behalf by  
the Local  
Government.

24. (1) The District Magistrate, by notice in writing to the licensee, may require that any shops in which any excisable article is sold shall be closed at such times or for such period as he may think necessary for the preservation of the public peace.

Closing of  
shops for the  
sake of public  
peace.

(2) If a riot or unlawful assembly is apprehended or occurs in the vicinity of any such shop, a Magistrate of any class, who is present, may

require such shop to be kept closed for such period as he may think necessary :

Provided that, when any such riot or unlawful assembly occurs, a licensee shall, in the absence of the Magistrate, close his shop without any order.

(3) When any Magistrate issues an order under sub-section (2), he shall forthwith inform the Collector of his action and his reasons therefor.

## CHAPTER V.

### DUTIES AND FEES.

Duty on  
excisable  
articles.

25. (1) A duty shall, if the Local Government so direct, be levied on all excisable articles—

- (a) imported ; or
- (b) exported ; or
- (c) transported ; or
- (d) manufactured, cultivated or collected under any license granted under section 13 ; or
- (e) manufactured in any distillery established, or any distillery or brewery licensed, under this Act :

Provided that it shall be lawful for the Local Government to exempt any excisable article from any duty to which the same may be liable under this Act.

(2) Duty may be imposed under sub-section (1) at different rates according to the places to which any excisable article is to be removed or according to the strength and quality of such article.

(3) Notwithstanding anything contained in sub-section (1),—

- (i) duty shall not be imposed thereunder on any article which has been imported into British India and was liable, on such importation, to duty under the <sup>1</sup>Sea Customs Act, 1878, or the <sup>2</sup>Indian Tariff Act, 1894 ; VIII of 18
- (ii) duty imposed thereunder on denatured spirit or beer manufactured in British India shall, unless the Local Government, with the previous sanction of the Governor General in Council, otherwise directs, be equal to the duty to which denatured spirit or beer, as the case may be, when imported into British India by sea, is liable under the <sup>2</sup>Indian Tariff Act, 1894, or any other law for VIII of 18  
the time being in force relating to the duties of customs on goods imported into British India.

<sup>1</sup> Genl. Acts, Vol. II.

<sup>2</sup> Genl. Acts, Vol. IV.



26. Subject to such rules regulating the time, place and manner as the Local Government may prescribe, such duty shall be levied rateably on the quantity of excisable article imported, exported, transported, collected or manufactured in or issued from a distillery, brewery or warehouse :

Ways of  
levying such  
duty.

Provided that—

(1) duty may be levied—

(a) on intoxicating drugs by an acreage rate levied on the cultivation of the hemp plant or coca plant (*Erythroxylum coca*), or by a rate charged on the quantity collected ;

(b) on spirit or beer manufactured in any distillery established or any distillery or brewery licensed under this Act—

(i) in accordance with such scale of equivalents calculated on the quantity of materials used, or by the degree of attenuation of the wash or wort, as the case may be, as the Local Government may prescribe, or

(ii) by a rate charged directly on the materials used ;

(c) on *tari*, by a tax on each tree from which the *tari* is drawn ;

(2) where payment is made upon the issue of an excisable article for sale from a warehouse, it shall be at the rate of duty in force on the date of issue of such article from the warehouse.

27. Instead of or in addition to any duty leviable under this Chapter, the Local Government may accept payment of a sum in consideration of the grant of any lease under section 18.

Payment for  
grant of  
leases.

## CHAPTER VI.

### LICENSES, PERMITS AND PASSES.

28. Every license, permit or pass granted under this Act —

(a) shall be granted—

(i) on payment of such fees (if any),

(ii) for such period,

(iii) subject to such restrictions, and on such conditions, and

(b) shall be in such form and contain such particulars,

as the Local Government may direct either generally by rules made under section 62 or in any particular instance.

Form and  
conditions of  
licenses, etc.

29. Any authority granting a license under this Act may require the licensee to execute a counterpart agreement in conformity with the tenor of his license and to give such security for the performance of such agreement, or to make such deposit in lieu of security, as such authority may think fit.

Power to  
take security  
from licensee.

Technical defects, irregularities and omissions.

30. (1) No license granted under this Act shall be deemed to be invalid by reason merely of any technical defect, irregularity or omission in the license or in any proceedings taken prior to the grant thereof.

(2) The decision of the Excise Commissioner as to what is a technical defect, irregularity or omission shall be final.

Power to cancel or suspend license, etc.

31. (1) Subject to such restrictions as the Local Government may prescribe, the authority granting any license, permit or pass under this Act may cancel or suspend it,—

- (a) if any duty or fee payable by the holder thereof be not duly paid ; or
- (b) in the event of any breach by the holder thereof or by any of his servants, or by any one acting on his behalf with his express or implied permission, of any of the terms of conditions thereof ; or
- (c) if the holder thereof, or any of his servants, or any one acting on his behalf with his express or implied permission, is convicted of any offence under this Act or any other law for the time being in force relating to revenue, or of any offence under the <sup>1</sup>Indian Merchandise Marks Act, 1889, or under any section which has <sup>IV of 188</sup> been introduced into the <sup>2</sup>Indian Penal Code by section 3 of that <sup>XLV of 18</sup> Act ; or
- (d) if the holder thereof is convicted of any cognizable and non-bailable offence ; or
- (e) if the holder thereof is punished for any offence referred to in clause (8) of section 167 of the <sup>3</sup>Sea Customs Act, 1878 ; or <sup>VIII of 11</sup>
- (f) where a license, permit or pass has been granted on the application of the holder of any lease granted under section 18, on the requisition in writing of such lessee ; or
- (g) if the conditions of the license, permit or pass provide for such cancellation or suspension at will.

(2) Where a license, permit or pass held by any person is cancelled under clause (a), clause (b), clause (c) or clause (e) of sub-section (1), the authority aforesaid may cancel any other license, permit or pass granted to such person under this Act or under any other law for the time being in force relating to excise-revenue, or under the <sup>3</sup>Opium Act, 1878.

<sup>I of 1878.</sup>

(3) The holder of a license, permit or pass shall not be entitled to any compensation for its cancellation or suspension, nor to the refund of any fee paid or deposit made in respect thereof.

<sup>1</sup> Genl. Acts, Vol. IV.

<sup>2</sup> Genl. Acts, Vol. I.

<sup>3</sup> Genl. Acts, Vol. II.

(4) Where a license is cancelled or suspended under clause (a), clause (b), clause (c) or clause (e) of sub-section (1),—

- (a) the fee payable for the balance of the period for which such license would have been current but for such cancellation or suspension, may be recovered from the ex-licensee as excise revenue ;
- (b) the Collector may take the grant under management or resell it at the risk and loss of the ex-licensee, but any profit realised by such management or resale which is not in excess of the amount recovered under clause (a) for such period shall be paid to the ex-licensee.

32. (1) Whenever the authority which granted any license under this Act considers that such license should be withdrawn for any cause other than those specified in section 31, it shall remit a sum equal to the amount of the fees payable in respect thereof for fifteen days, and may withdraw the license either—

Power to  
withdraw  
licenses.

- (a) on the expiration of fifteen days' notice in writing of its intention to do so, or
- (b) forthwith without notice.

(2) If any license be withdrawn under clause (b) of sub-section (1), the aforesaid authority shall, in addition to remitting such sum as aforesaid, pay to the licensee such further sum (if any) by way of compensation as the Excise Commissioner may direct.

(3) When a license is withdrawn under sub-section (1), any fee paid in advance or deposit made by the licensee in respect thereof shall be refunded to him, after deducting the amount (if any) due to Government.

33. (1) Any holder of a license granted under this Act to sell an excisable article may surrender his license on the expiration of one month's notice in writing given by him to the Collector of his intention to surrender the same, and on payment of the fee payable for the license for the remainder of the period for which it would have been current but for such surrender :

Surrender of  
licenses.

Provided that if the Excise Commissioner is satisfied that there is sufficient reason for surrendering a license he may remit to the holder thereof the sum so payable on surrender or any portion thereof.

(2) Sub-section (1) shall not apply in the case of any license granted under section 18.

*Explanation.*—The words "holder of a license," as used in this section, include a person whose tender or bid for a license has been accepted, although he may not actually have received the license.

## CHAPTER VII.

## OFFENCES AND PENALTIES.

Penalty for  
illegal  
import, etc.

34. Whoever, in contravention of this Act, or of any rule, notification or order made, issued or given thereunder, or of any license, permit or pass granted under this Act,—

- (a) imports, exports, transports, manufactures, collects or possesses any excisable article ; or
- (b) save in the cases provided for in section 33, sells any excisable article ; or
- (c) cultivates any hemp plant or coca plant (*Erythroxylum coca*) ; or
- (d) taps or draws *tari* from any *tari*-producing tree ; or
- (e) constructs or works any distillery or brewery ; or
- (f) uses, keeps or has in his possession any materials, still, utensil, implement or apparatus whatsoever for the purpose of manufacturing any excisable article other than *tari* ; or
- (g) removes any excisable article from any distillery, brewery or warehouse licensed, established, or continued under this Act ; or
- (h) bottles any liquor,

shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees or with both :

Provided that, when any person is convicted under this section of any offence committed in respect of cocaine or any of the synthetics thereof, he shall be punishable, for every such offence, with imprisonment for a term which may extend to one year, or with fine which may extend to two thousand rupees, or with both.

Penalty for  
attempting  
to render  
denatured  
spirit fit for  
human  
consumption.

35. Whoever—

- (a) attempts to render fit for human consumption any spirit which has been denatured ; or
- (b) has in his possession any spirit in respect of which he knows or has reason to believe that any such attempt has been made,

shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees or with both,

Penalty for  
illegal  
possession.

36. Whoever, without lawful authority, has in his possession any quantity of any excisable article knowing the same to have been unlawfully imported, transported, manufactured, cultivated or collected, or knowing the prescribed duty not to have been paid thereon, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Penalty for  
offences not

37. Whoever is guilty of any act or intentional omission in contravention of any of the provisions of this Act, or of any rule, notification or order made,

issued or given thereunder and not otherwise provided for in this Act, shall be punishable with fine which may extend to two hundred rupees. otherwise provided for.

38. (1) A licensed vendor or any person in his employ and acting on his behalf who— Penalty for certain unlawful acts of licensed vendors.

- (a) sells any excisable article to a person who is drunk or intoxicated ;  
or
- (b) sells or gives any excisable article to any person in contravention of section 23 ; or
- (c) in contravention of section 22 employs or permits to be employed on any part of his licensed premises referred to in that section any person or woman ; or
- (d) permits drunkenness, intoxication, disorderly conduct, dancing, singing, playing of music or gaming on the licensed premises of such vendor ; or
- (e) permits persons whom he knows or has reason to believe to have been convicted of any non-bailable offence, or who are reputed prostitutes, to resort to or assemble on the licensed premises of such vendor, whether for the purposes of crime or prostitution or not,

shall be punishable with fine which may extend to five hundred rupees.

(2) Where any licensed vendor, or any person in his employ and acting on his behalf, is charged with permitting drunkenness on the premises of such vendor, and it is proved that any person was drunk on such premises, it shall lie on the person charged to prove that the licensed vendor and the persons employed by him took all reasonable steps for preventing drunkenness on such premises.

39. A holder of a license, permit or pass granted under this Act or any person in the employ of such holder and acting on his behalf, who intentionally— Penalty for misconduct by licensee, etc.

- (a) fails to produce such license, permit or pass on the demand of any Excise-officer or of any other officer duly empowered to make such demand ; or
- (b) save in a case provided for by section 34, contravenes any rule made under section 62 ; or
- (c) does any act in breach of any of the conditions of the license, permit or pass not otherwise provided for in this Act,

shall be punishable in case (a) with fine which may extend to two hundred rupees, and in case (b) or case (c) with fine which may extend to five hundred rupees.

40. (1) A chemist, druggist, apothecary or keeper of a dispensary who allows any excisable article, which has not been *bona fide* medicated for medicinal purposes, to be consumed on his business premises by any person not Penalty for allowing consumption in chemist's shop, etc

employed in his business, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

(2) Any person not employed as aforesaid who consumes any such excisable article on such premises, shall be punishable with fine which may extend to two hundred rupees.

Manufacture, sale or possession by one person on account of another.

41. (1) Where any excisable article has been manufactured or sold or is possessed by any person on account of any other person, and such other person knows or has reason to believe that such manufacture or sale was, or that such possession is, on his account, the article shall, for the purposes of this Act, be deemed to have been manufactured or sold by, or to be in the possession of, such other person.

(2) Nothing in sub-section (1) shall absolve any person who manufactures, sells or has possession of an excisable article on account of another person from liability to any punishment under this Act for the unlawful manufacture, sale or possession of such article.

Attempts to commit and abetment of offences. Presumption as to commission of offence in certain cases.

42. Whoever attempts to commit or abets any offence punishable under this Act shall be liable to the punishment provided for such offence.

43. In prosecutions under section 34, section 35 and section 36 it may be presumed that the accused person has committed an offence punishable under that section in respect of—

- (a) any excisable article, or
- (b) any still, utensil, implement or apparatus whatsoever for the manufacture of any excisable article other than *tari*, or
- (c) any materials which have undergone any process towards the manufacture of an excisable article, or from which an excisable article has been manufactured,

for the possession of which he is unable to account satisfactorily.

Criminal liability of licensee for acts of servants.

44. Where any offence under section 34, section 35, section 36, section 38 or section 39 is committed by any person in the employ and acting on behalf of the holder of a license, permit or pass granted under this Act, such holder shall also be punishable as if he had himself committed the same, unless he establishes that all due and reasonable precautions were exercised by him to prevent the commission of such offence :

Provided that no person other than the actual offender shall be punishable with imprisonment except in default of payment of fine.

Enhanced punishment after previous conviction.

45. If any person, after having been previously convicted of an offence punishable under section 34, section 35, section 36 or section 40, or under the corresponding provisions in any enactment repealed by this Act, subsequently commits and is convicted of an offence punishable under any of those sections

he shall be liable to twice the punishment which might be imposed on a first conviction under this Act :

598. Provided that nothing in this section shall prevent any offence which might otherwise have been tried summarily under Chapter XXII of the <sup>1</sup>Code of Criminal Procedure, 1898, from being so tried.

46. (1) Whenever an offence has been committed which is punishable under this Act, the excisable article, materials, still, utensil, implement or apparatus in respect of or by means of which such offence has been committed shall be liable to confiscation. Liability of certain things to confiscation.

(2) Any excisable article lawfully imported, transported, manufactured, held in possession or sold along with, or in addition to, any excisable article liable to confiscation under sub-section (1), and the receptacles, packages, and coverings in which any such excisable article, materials, still, utensil, implements or apparatus as aforesaid is or are found and the other contents, if any, of the receptacles or packages in which the same is or are found, and the animals, carts, vessels, rafts or other conveyance used in carrying the same, shall likewise be liable to confiscation :

Provided that no animals, carts, vessels, rafts or other conveyance shall be liable to confiscation if it is proved that they are not the property of the offender and if the owner thereof establishes that he had no reason to believe that such offence was being or was likely to be committed.

47. (1) Where in any case tried by him the Magistrate decides that anything is liable to confiscation under section 46, he may either order confiscation or may give the owner of the thing liable to be confiscated an option to pay, in lieu of confiscation, such fine as the Magistrate thinks fit. Order of confiscation.

(2) When an offence under this Act has been committed, but the offender is not known or cannot be found, the case shall be enquired into and determined by the Collector, who may order confiscation :

Provided that no such order shall be made until the expiration of one month from the date of seizing the thing intended to be confiscated, or without hearing any person who may claim any right thereto, and the evidence (if any) which he may produce in support of his claim :

Provided further that if the thing in question is liable to speedy and natural decay, or if the Collector is of opinion that the sale would be for the benefit of its owner, the Collector may at any time direct it to be sold ; and the provisions of this sub-section shall, as nearly as may be practicable, apply to the net proceeds of such sale.

Power to  
compound  
offences.

**48. (1) The Collector may—**

- (a) accept from any person whose license, permit or pass is liable to be cancelled or suspended under clauses (a) and (b) of section 31, or who is reasonably suspected of having committed an offence under section 37, section 38 or section 39, a sum of money not exceeding two hundred rupees in lieu of such cancellation or suspension or by way of composition for such offence, as the case may be; and
- (b) in any case in which any property has been seized as liable to confiscation under this Act, may, at any time before an order of confiscation has been passed by a Magistrate, release the same on payment of the value thereof as estimated by the Collector.

(2) On the payment of such sum of money, or such value, or both, as the case may be, to the Collector, the accused person, if in custody, shall be discharged, the property seized (if any) shall be released, and no further proceedings shall be taken against such person or property.

Penalty on  
officers  
making  
vexatious  
search,  
seizure,  
detention or  
arrest.

**49. Any Excise-officer or officer of the Police or Land Revenue Department or any other person duly empowered under section 52, who vexatiously and unnecessarily—**

- (a) enters or searches or causes to be entered or searched any place under colour of exercising any power conferred by this Act, or
  - (b) seizes the moveable property of any person on the pretence of seizing or searching for any article liable to confiscation under this Act,
- or

- (c) detains, searches or arrests any person,

shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

## CHAPTER VIII.

### DETENTION, INVESTIGATION AND TRIAL OF OFFENCES.

Landholders  
and others  
to give  
information.

**50. Whenever any excisable article is manufactured or collected, or any hemp plant or coca plant (*Erythroxylum coca*) is cultivated, on any land in contravention of this Act—**

- (a) any owner or occupier of such land and any agent of any such owner or occupier; and
  - (b) all village-headmen, village-accountants, village-watchmen, and all officers employed in the collection of revenue or rent of land on the part of Government or the Court of Wards, in the villages,
- shall, in the absence of reasonable excuse, be bound to give notice of the fact



to a Magistrate or to an officer of the Excise, Police or Land Revenue Department, as soon as the fact comes to their knowledge.

51. The Excise Commissioner, or a Collector or any Excise-officer not below such rank as the Local Government may by notification prescribe, or any Police-officer duly empowered in that behalf, may—

Power to enter and inspect places of manufacture and sale.

- (a) enter and inspect, at any time by day or by night, any place in which any licensed manufacturer manufactures or stores any excisable article ; and
- (b) enter and inspect, at any time within the hours during which sale is permitted and at any other time during which the same may be open, any place in which any excisable article is kept for sale by any person holding a license under this Act ; and
- (c) examine accounts and registers, and examine, test, measure or weigh any materials, stills, utensils, implements, apparatus or excisable article found in such place.

52. (1) Any Excise-officer, or any Police-officer not below such rank as the Local Government may by notification prescribe, or any single officer or class of officers of the Land Revenue Department duly empowered in this behalf by notification of the Local Government, subject to such restrictions as the Local Government may prescribe, and any other person duly empowered by notification of the Local Government in this behalf, may—

Power to arrest without warrant, to seize article liable to confiscation and to make searches.

- (a) arrest without warrant any person found committing an offence punishable under section 34, section 35, or section 36 ; and
- (b) seize and detain any excisable or other article which he has reason to believe to be liable to confiscation under this Act or any other law for the time being in force relating to excise-revenue ; and
- (c) detain and search any person upon whom, and any vessel, raft, vehicle, animal, package, receptacle, or covering in or upon which he may have reasonable cause to suspect any such article to be.

(2) When any person is accused or reasonably suspected of committing an offence under this Act, and on demand of such officer refuses to give his name and residence or gives a name and residence which such officer has reason to believe to be false, he may be arrested by such officer in order that his name and residence may be ascertained.

53. If a Magistrate, upon information and after such inquiry (if any) as he thinks necessary, has reason to believe that an offence under section 34, section 35 or section 36 has been, is being, or is likely to be, committed, he may issue a warrant—

Power of Magistrate to issue a warrant.

- (a) for the search of any place in which he has reason to believe that any excisable article, still, utensil, implement, apparatus or materials which are used for the commission of such offence, or in

respect of which such offence has been, is being, or is likely to be, committed, are kept or concealed, and

- (b) for the arrest of any person whom he has reason to believe to have been, to be, or to be likely to be, engaged in the commission of any such offence.

Power to  
search  
without a  
warrant.

54 Whenever any Excise-officer not below such rank as the Local Government may, by notification, prescribe, has reason to believe that an offence under section 34, section 35, or section 36, has been, is being, or is likely to be, committed, and that a search-warrant cannot be obtained without affording the offender an opportunity of escape or of concealing evidence of the offence, he may after recording the grounds of his belief, —

- (a) at any time, by day or night, enter and search any place and seize anything found therein which he has reason to believe to be liable to confiscation under this Act ; and  
(b) detain and search and, if he thinks proper, arrest any person found in such place whom he has reason to believe to be guilty of such offence as aforesaid.

Powers of  
Excise-  
officers in  
matters of  
investigation.

55. (1) Any Excise-officer not below such rank, and within such specified area, as the Local Government may, by notification, prescribe, may, as regards offences under section 34, section 35 and section 36, exercise the powers conferred on an officer in charge of a police-station by the provisions of Chapter XIV of the <sup>1</sup> Code of Criminal Procedure, 1898 :

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Provided that any such powers shall be subject to such restrictions and modifications (if any) as the Local Government may by rule prescribe.

(2) For the purposes of section 156 of the said Code the area in regard to which an Excise-officer is empowered under sub-section (1) shall be deemed to be a police-station, and such officer shall be deemed to be the officer in charge of the station.

(3) Any such officer, specially empowered in that behalf by the Local Government, may, without reference to a Magistrate and for reasons to be recorded by him in writing, stop further proceedings against any person concerned or supposed to be concerned in any offence against this Act, which he has investigated or which may have been reported to him.

Report by  
investigating  
officer.

56. If on an investigation by an Excise-officer empowered under section 55, sub-section (1), it appears that there is sufficient evidence to justify the prosecution of the accused, the investigating officer, unless he proceeds under section 55, sub-section (3), shall submit a report (which shall for the purposes of section 190 of the <sup>1</sup> Code of Criminal Procedure, 1898, be deemed to be a police-report) to a Magistrate having jurisdiction to inquire

V of 1898

into or try the case and empowered to take cognizance of offences on police-reports.

57. Where any Excise-officer below the rank of Collector makes any Report by arrest, seizure or search under this Act, he shall, within twenty-four hours <sup>Excise-officer.</sup> thereafter, make a full report of all the particulars of the arrest, seizure or search to his immediate official superior, and shall, unless bail be accepted under section 59, take or send the person arrested, or the thing seized, with all convenient despatch, to a Magistrate for trial or adjudication.

f 1898. 58. Save as in this Act otherwise expressly provided the provisions of the <sup>Arrests, searches, etc., how to be made.</sup> <sup>1</sup> Code of Criminal Procedure, 1898, relating to arrests, detentions in custody, searches, summonses, warrants of arrests, search-warrants, the production of persons arrested, and the disposal of things seized, shall apply, as far as may be, to all action taken in these respects under this Act.

59. (1) The Local Government may by notification empower any Excise <sup>Security for appearance in case of arrest without warrant.</sup> officer to release persons on bail.

(2) When a person is arrested under this Act otherwise than on warrant by a person or officer who has not authority to release arrested persons on bail, he shall be produced before or forwarded to—

(a) the nearest Excise-officer who has authority to release arrested persons on bail, or

(b) the nearest officer in charge of a police-station, whoever is nearer.

(3) Whenever any person arrested under this Act, otherwise than on a warrant, is prepared to give bail, and is arrested by, or produced in accordance with sub-section (2) before an officer who has authority to release arrested persons on bail, he shall be released upon bail or, at the discretion of the officer releasing him, on his own bond.

of 1898. (4) The provisions of sections 499 to 502, 513, 514 and 515 of the <sup>1</sup> Code of Criminal Procedure, 1898, shall apply, so far as may be, in every case in which bail is accepted or a bond taken under this section.

60. No Magistrate of the third class, unless he is specially empowered by <sup>Cognizance of offences.</sup> the District Magistrate in this behalf, shall take cognizance of or try any offence under this Act.

61. (1) No Magistrate shall take cognizance of an offence punishable— <sup>Limitation of prosecutions.</sup>

(a) under section 37, section 38 or section 39, except on the complaint or report of the Collector or of an Excise-officer authorized by him in this behalf; or

(b) under any other section of this Act other than section 49, except on his own knowledge or suspicion or on the complaint or report of an Excise or Police officer.

(2) Except with the special sanction of the Local Government, no Magistrate shall take cognizance of any offence punishable under this Act, or any rule or order thereunder, unless the prosecution is instituted within six months from the date on which the offence is alleged to have been committed.

## CHAPTER IX.

### MISCELLANEOUS.

Power to  
make rules.

62. (1) The Local Government may make rules<sup>1</sup> for the purpose of carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing provision, the Local Government may make rules—

- (a) prescribing the powers and duties of Excise-officers;
- (b) regulating the delegation of any powers or duties by the Chief Revenue-authority, the Excise Commissioner or Collectors under section 7, clause (a);
- (c) declaring in what cases or classes of cases and to what authorities appeals shall lie from orders, whether original or appellate, passed under this Act or under any rule made thereunder, or by what authorities such orders may be revised, and prescribing the time and manner of presenting, and the procedure for dealing with, appeals and revisions;
- (d) regulating the import, export, transport, manufacture, collection, possession, supply or storage of any excisable article, or the cultivation of the hemp plant or the coca plant (*Erythroxylum coca*), and may, by such rules, among other matters,—
  - (i) regulate the tapping of *tari*-producing trees, the drawing of *tari* from such trees, the marking of the same and the maintenance of such marks,
  - (ii) declare the process by which spirit shall be denatured and the denaturation of spirit ascertained, and
  - (iii) cause spirit to be denatured through the agency or under the supervision of its own officers;
- (e) regulating the periods and localities for which, and the persons or classes of persons to whom, licenses for the wholesale or retail vend of any excisable article may be granted, and regulating the number of such licenses which may be granted in any local area;
- (f) prescribing the procedure to be followed and the matters to be ascertained before any license for such vend is granted for any locality;

<sup>1</sup> See the first footnote under this Act, *supra*, p. 336.

- (g) regulating the amount, time, place and manner of payment of any duty or fee ;
- (h) prescribing the authority by, the form in which, and the terms and conditions on and subject to which any license, permit or pass shall be granted, and may by such rules, among other matters,—
  - (i) fix the period for which any license, permit or pass shall continue in force,
  - (ii) prescribe the scale of fees or the manner of fixing the fees payable in respect of any such license, permit or pass,
  - (iii) prescribe the amount of security to be deposited by holders of any license, permit or pass for the performance of the conditions of the same,
  - (iv) prescribe the accounts to be maintained and the returns to be submitted by license-holders, and
  - (v) prohibit or regulate the partnership in, or the transfer of, licenses ;
- (i) prescribing the measures for ascertaining local public opinion and providing for the appointment of advisory committees and specifying their powers and duties ;
- (j) providing for the destruction or other disposal of any excisable article deemed to be unfit for use ;
- (k) regulating the disposal of confiscated articles ;
- (l) regulating the grant of expenses to witnesses and of compensation to persons charged with offences under this Act and subsequently released, discharged or acquitted ; and
- (m) regulating the power of Excise-officers to summon witnesses from a distance.

(3) 'The power conferred by this section of making rules is subject to the condition that the rules made under sub-section 2 (a), (b), (c), (d), (f), (i), (j) and (m) shall be made after previous publication :

Provided that any such rules may be made without previous publication if the Local Government considers that they should be brought into force at once.

63. All rules made and notifications issued under this Act shall be published in the Gazette, and shall have effect from the date of such publication or from such other date as may be specified in that behalf. Publication of rules and notifications.

64. (1) The following moneys, namely,—

- (a) all excise-revenue,
- (b) any loss that may accrue when, in consequence of default, a grant has been taken under management by the Collector, or has been re-sold by him, and

Recovery of Government dues.

(c) all amounts due to the Government by any person on account of any contract relating to the excise-revenue, may be recovered from the person primarily liable to pay the same, or from his surety (if any), by distress and sale of his moveable property, or by any other process for the recovery of land-revenue due from landholders or from farmers of land or their sureties.

(2) When a grant has been taken under management by the Collector, or has been re-sold by him, the Collector may recover, in any manner authorized by sub-section (1), any money due to the defaulter by any lessee or assignee.

Government  
lien on  
property of  
defaulters.

65. In the event of default by any person licensed or holding a lease under this Act, all his distillery, brewery, or warehouse or shop buildings, fittings or apparatus and all stocks of excisable articles or materials for manufacture of the same held in or upon any distillery, brewery, warehouse or shop premises shall be liable to be attached in satisfaction of any claim for excise-revenue or in respect of any losses incurred by Government through such default and to be sold to satisfy such claim, which shall be a first charge upon the sale-proceeds.

Power of  
Local  
Government  
to exempt  
persons or  
excisable  
articles from  
the provisions  
of the Act.

66. The Local Government may, by notification, either wholly or partially and subject to such conditions as it may think fit to prescribe, exempt any person or class of persons or any excisable article wholly or partially from all or any of the provisions of this Act, or of all or any of the rules made under this Act, either throughout the province or in any specified area comprised therein, or for any specified period or occasion.

Protection  
to persons  
acting  
under Act.

67. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

Limitation  
of suits.

68. No suit shall lie against the Secretary of State for India in Council or against any Excise Police, or Land Revenue officer in respect of anything done, or alleged to have been done, in pursuance of this Act, unless the suit is instituted within six months from the date of the act complained of.

Repeal of  
enactments.

69. The enactments mentioned in the Schedule are hereby repealed to the extent specified in the fourth column thereof.

## THE SCHEDULE.

(See Section 69.)

## ENACTMENTS REPEALED.

1	2	3	4
Year.	No.	Short title.	Extent of repeal.
1863 ... ..	XVI	The Excise (Spirits) Act, 1863.	So much as has not been repealed.
1894 ... ..	VIII	The Indian Tariff Act, 1894. <sup>1</sup>	Section 6.
1896 ... ..	XII	The Excise Act, 1896 ...	So much as has not been repealed.
1906 ... ..	VII	The Excise (Amendment) Act, 1906.	The whole.

CENTRAL PROVINCES ACT No. III of 1915.<sup>2</sup>

[THE CENTRAL PROVINCES VACCINATION LAW AMENDMENT ACT, 1915.]

An Act to amend the Law relating to Vaccination in the Central Provinces.

WHEREAS it is expedient to amend the law relating to vaccination in the Central Provinces and whereas the previous sanction of the Governor-General required by <sup>3</sup> Section 5 of the Indian Councils Act, 1892, has been obtained and 56  
N. C. 14.  
II of 1880. to the amendment of the Vaccination Act, 1880 ;

It is hereby enacted as follows :—

1. (7) This Act may be called the Central Provinces Vaccination Law Amendment Act, 1915 ; and Short title and extent.

(2) It extends to the whole of the Central Provinces.

II of 1880. 2. In the title of the <sup>4</sup> Vaccination Act, 1880 (hereinafter referred to as Amendment of title, Act XIII of 1880.  
"the said Act"), the word "and" shall be omitted between the words "Municipalities" and "Cantonments" and the words "and notified areas" shall be added after the word "Cantonments."

<sup>1</sup> General Acts, Vol. IV.

<sup>2</sup> For Statement of Objects and Reasons, see Central Provinces Gazette, 1915, Pt. VII, p. 27, and for Proceedings in Council, see *ibid*, 1915, Pt. VIII, pp. 28 and 114.

<sup>3</sup> See now s. 79 (2) of the Government of India Act, 1915 (5 and 6 Geo. 5, c. 41).

<sup>4</sup> *Supra*, p. 81.

Amendment  
of preamble,  
Act XIII of  
1880.

3. In the preamble to the said Act, the word "and" shall be omitted between the words "municipalities" and "cantonments"; and after the word "cantonments", the words "and notified areas as defined in section 169 of the 'Central Provinces Municipal Act, 1903,'" shall be added.

Amendment  
of Section 1,  
Act XIII of  
1880.

4. In section 1 of the said Act, the word "and" shall be omitted <sup>XVI of 19</sup> between the words "municipalities" and "cantonments"; and after the word "cantonments", the words "and notified areas" shall be inserted.

Amendment  
of Section 2,  
clause (6),  
Act XIII of  
1880.

5. In section 2, clause (6), of the said Act, the word "or" shall be omitted between the words "municipality" and "cantonment"; and after the word "cantonment", the words "or notified area" shall be inserted.

Insertion of  
new Section  
after Section  
3, Act XIII  
of 1880.

6. After section 3 of the said Act, the following section shall be inserted, namely :—

[*Supra*, p. 83.]

Amendment  
of Section 5,  
Act XIII of  
1880.

7. In section 5 of the said Act, after the word "municipality", the words "or notified area" shall be inserted.

Insertion of  
new Section  
after Section  
19, Act XIII  
of 1880.

8. After section 19 of the said Act, the following section shall be inserted, namely :—

[*Supra*, p. 87.]

Amendment  
of Section 21,  
Act XIII of  
1880.

9. In section 21 of the said Act, after the word "nineteen", the word and letter "nineteen A" shall be inserted.

Amendment  
of Section 22,  
clause (c),  
Act XIII of  
1880.

10. In section 22, clause (c), of the said Act, after the word "nineteen", the word and letter "nineteen A" shall be inserted.

Amendment  
of Section 23,  
Act XIII of  
1880.

11. In section 23 of the said Act, after the word "municipality" the words "or notified area" shall be inserted; and after the word "fund," the words "or notified area fund" shall be added.

Incorporation  
of Act in  
Act XIII of  
1880.

12. This Act shall be read with, and deemed to form part of the<sup>1</sup> Vaccination Act, 1880.

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## THE CENTRAL PROVINCES SLAUGHTER OF ANIMALS ACT, 1915.

(C. P. ACT No. IV OF 1915.)

### CONTENTS.

#### SECTIONS.

1. Short title, extent and commencement.
2. Definitions.

<sup>1</sup> *Supra*, p. 307.



## SECTIONS.

3. Inspectors.
4. Powers of Inspectors.
5. Penalties.
6. Exemption of occupier from liability in certain cases.
7. Penalties for certain offences.
8. Power of Local Government to transfer its functions to Municipal Committees.
9. Power of Local Government to withdraw from Municipal Committees their functions regarding slaughter-houses.
10. Power to make rules.

THE CENTRAL PROVINCES ACT, IV OF 1915.<sup>1</sup>

[THE CENTRAL PROVINCES SLAUGHTER OF ANIMALS ACT, 1915.]

An Act to make better provision for the regulation of the slaughter of animals in the Central Provinces.

WHEREAS it is expedient to make better provision for the regulation of the slaughter of animals ;

It is hereby enacted as follows :—

1. (1) This Act may be called the Central Provinces Slaughter of Animals Act, 1915. Short title,  
extent and  
commence-  
ment.

(2) This section extends to the whole of the Central Provinces ; and the Local Government may, by notification, extend, on and from a date to be specified in the notification, the whole or any part of the rest of this Act to any such local area as it thinks fit.

2. In this Act—

Definitions.

(a) “animal” means any bull, bullock, cow, buffalo, goat, sheep or their young.

(b) “slaughter-house” means any place where more than ten animals are slaughtered on any one day, and includes any premises for the manufacture of jerked meat or the preparation of hides, bones or any other products of animals slaughtered at the slaughter-house, but shall not include any place where animals are slaughtered for religious purposes only and not for profit, nor any private place where more than ten animals are slaughtered on any one day for a social ceremony.

(c) “occupier” includes any person owning any animals slaughtered at the slaughter-house or carrying on the business of manufacturing

<sup>1</sup> For Statement of Objects and Reasons, see Central Provinces Gazette, 1915, Pt. VII, p. 32; for report of Select Committee, see *ibid*, 1915, Pt. VII, p. 145; and for Proceedings in Council, see *ibid*, 1915, Pt. VIII, p. 24, and *ibid*, 1915, Pt. VIII, p. 292.

or preparing the products of slaughtered animals for sale, or a managing agent or other person authorised to represent the occupier.

Inspectors.

3. (1) The Local Government may, by notification, appoint by name or by office such persons as it thinks fit to be Inspectors of slaughter-houses within such local limits as it may assign to such Inspectors.

(2) The District Magistrate shall be an Inspector of all slaughter-houses in his district.

(3) Every Inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code and shall be officially subordinate to such authority as the Local Government may indicate in this behalf.

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Powers of Inspectors.

4. Subject to any rules in this behalf, an Inspector of slaughter-houses may within the local limits for which he is appointed—

- (a) enter, with such assistants, if any, as he thinks fit, any place which is, or which he has reason to believe to be, used as a slaughter-house ;
- (b) make such examination of the premises and of the registers prescribed by rules made under this Act and take on the spot or otherwise such evidence of any person as he may deem necessary for carrying out the purposes of this Act ;
- (c) exercise such other powers as may be necessary for carrying out the purposes of this Act :

Provided that no one shall be required under this section to answer any question or give any evidence tending to criminate himself.

Penalties.

5. Any person who in breach of this Act or any rule made thereunder—

- (a) slaughters any animal, or allows any animal to be slaughtered, in an inhumane way ;
- (b) fails to provide any animal with food or water or cruelly treats any animal ;
- (c) neglects to keep any slaughter-house in a sanitary condition ;
- (d) neglects to take out a license or to keep any register prescribed by rules made under this Act ;
- (e) fails to destroy or otherwise dispose of the flesh, hides or bones of any animal in such manner that they may not be injurious to health ;
- (f) does or omits to do any other act prohibited or prescribed by this Act or any rule made thereunder,

shall be punished with fine which may extend to two hundred rupees :

Provided that no prosecution under this section shall be instituted except by, or with the sanction of, the Inspector.

6. (1) Where the occupier of a slaughter-house is charged with an offence under this Act, he shall be entitled, upon complaint made by him, to have any other person whom he charges as the actual offender brought before the Court at the time appointed for hearing the charge; and if, after the commission of the offence has been proved, the occupier of the slaughter-house proves to the satisfaction of the Court—

*Exemption of occupier from liability in certain cases.*

(a) that he has used due diligence to enforce the execution of this Act and

(b) that the said other person committed the offence in question without his knowledge, consent or connivance,

that other person shall be convicted of the offence and shall be liable to the like fine as if he were the occupier, and the occupier shall be discharged from any liability under this Act

(2) When it is made to appear to the satisfaction of the Inspector at any time prior to the institution of the proceedings—

(a) that the occupier of the slaughter-house has used all due diligence to enforce the execution of this Act, and

(b) by what person the offence has been committed, and

(c) that it has been committed without the knowledge, consent or connivance of the occupier and in contravention of his orders,

the Inspector shall proceed against the person whom he believes to be the actual offender without first proceeding against the occupier of the slaughter-house, and such person shall be liable to the like fine as if he were the occupier.

7. Any person who wilfully obstructs an Inspector in the exercise of any power under section 4 or fails to produce on demand by an Inspector any license or register prescribed by rules made under this Act shall be punishable with fine which may extend to two hundred rupees.

*Penalties for certain offences.*

8. The Local Government may, by notification transfer all or any of the functions of the Local Government under this Act to any Municipal Committee within the local area subject to the jurisdiction of such Municipal Committee :

*Power of Local Government to transfer its functions to Municipal Committees.*

Provided that all rules framed by a Municipal Committee under section 10 of this Act shall be made in the manner in which, under the law for the time being in force, the Municipal Committee makes by-laws for the regulation of other matters within the limits of the Municipality, and shall, when sanctioned by the Local Government and published in the Gazette, have the force of law.

9. The Local Government may, by notification, withdraw from any Municipal Committee its functions or powers under the<sup>1</sup> Central Provinces

*Power of Local Government to withdraw from*

Municipal Committees, their functions regarding slaughter-houses.

Municipal Act, 1903, in respect of any slaughter-house situated within or without the Municipal area, and thereupon the control, management and inspection of such slaughter-house shall be regulated by the provisions of this Act.

Power to make rules.

10. (1) The Local Government may make rules consistent with this Act to provide for—

- (a) the slaughter of animals in a humane manner and the proper treatment of animals before slaughter;
- (b) the class and maximum daily number of animals to be slaughtered;
- (c) the maintenance of slaughter-houses in a sanitary condition;
- (d) the licensing of slaughter-houses and occupiers and the levy of fees for such licenses, whether by a charge for each animal slaughtered or by a fee for the license;
- (e) the maintenance of registers of persons employed in, and animals slaughtered at, slaughter-houses;
- (f) the destruction of the flesh, hides or bones of any animal suffering from anthrax, tuberculosis or any disease which may be declared likely to be injurious to health;
- (g) generally, the carrying out the purposes of this Act:

Provided that rules made under clause (a) for the slaughter of animals in a humane manner shall not conflict with the recognized religious usages of the person employed in their slaughter.

(2) The power conferred by sub-section (1) to make rules is subject to the condition of the rules being made after previous publication.

(3) Such rules shall be published in the Gazette and shall thereupon have the force of law.

## THE CENTRAL PROVINCES MEDICAL REGISTRATION ACT, 1916.

[C. P. ACT NO. 1 OF 1916.]

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#### PREAMBLE.

#### SECTIONS.

1. Short title and extent.
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## SECTIONS.

4. Privileges of registered practitioners.
5. Constitution of Medical Council.
6. Qualifications of members.
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16. Appeal against the decision of Registrar.
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21. Power of Chief Commissioner to alter schedule.
22. Power of Council to call for information regarding efficiency of teaching and attend examinations.
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24. Penalty for falsely pretending to be a registered practitioner.
25. Power to make rules and by-laws.

## THE SCHEDULE.

CENTRAL PROVINCES ACT NO. 1 OF 1916.<sup>1</sup>

[THE CENTRAL PROVINCES MEDICAL REGISTRATION ACT, 1916.]

## An Act for the registration of Medical Practitioners.

WHEREAS it is expedient to provide for the registration of medical practitioners in the Central Provinces;

It is hereby enacted as follows :—

1. (1) This Act may be called the Central Provinces Medical Registration Act, 1916. Short title.

(2) It extends to the whole of the Central Provinces. Extent.

2. The provisions of section 4 shall come into force on such date as the Chief Commissioner may notify in this behalf. The rest of this Act shall come into force at once. Commencement of Act.

3. In this Act, unless there is something repugnant in the subject or context,— Definitions.

(1) "the British Medical Act" means Statute 21 and 22, Victoria, Chapter 90 (The Medical Act), and any Act amending the same ;

[ 22  
c. 90.

<sup>1</sup> For Statement of Objects and Reasons, see Central Provinces Gazette, 1915, Pt. VII, p. 142, and for Proceedings in Council, see *ibid*, 1915, Pt. VIII, p. 296 and 1916, Pt. VIII, pp. 43 and 297.

- (2) " Council " means the Medical Council established by this Act ;
- (3) " hospitals," " asylums," " infirmaries," " dispensaries," " lying-in hospitals " mean institutions the methods of treatment carried on in which are those which are approved by the Medical Council established by this Act ;
- (4) " prescribed " means prescribed by rules or bye-laws made under this Act ; and
- (5) " registered practitioner " means any person registered under the provisions of this Act.

Privileges of  
registered  
practitioners.

4. Notwithstanding anything to the contrary in any enactment, rule, by-law or any other provision of law,—

- (1) no certificate required by law to be given by a medical practitioner or officer shall be valid unless signed by a registered practitioner ;
- (2) except with the special sanction of the Chief Commissioner, no one other than a registered practitioner shall be competent to hold any appointment as physician, surgeon or other medical officer in any hospital, asylum, infirmary, dispensary or lying-in hospital not supported entirely by voluntary contributions or as medical officer of health.

Constitution  
of Medical  
Council.

5. (1) A Medical Council shall be established for the Central Provinces and shall consist of thirteen members, including a President and a Vice-President, to be appointed in the following manner :—

- (a) the President nominated by the Chief Commissioner ;
- (b) one member elected by registered practitioners who are registered under the British Medical Act and are resident in the Central Provinces ;<sup>21 & 22 c. 90.</sup>
- (c) three members elected by registered practitioners who are graduates in medicine of any Indian University and are resident in the Central Provinces ;
- (d) two members elected by all other registered practitioners who are resident in the Central Provinces ;
- (e) six members nominated by the Chief Commissioner.

(2) The Vice-President shall be elected from among the members of the Council in the prescribed manner.

Qualifications  
of members.

6. No person shall be eligible to be a member of the Council unless he is a registered practitioner :

Provided that in the case of first appointments made under this Act the person electing the members under clauses (b), (c) and (d) of sub-section (1) of section 5 and the members appointed shall be persons who are qualified to be registered under clauses (a) and (b) of section 14.

7. The members of the Council shall hold office for a term of five years and shall be eligible for re-appointment. Term of office of members.

8. A member of the Council shall be deemed to have vacated his seat— Cessation of membership.

- 1) on sending his resignation in writing to the President or the Registrar ;
- (2) on his absence without excuse sufficient in the opinion of the Council from three consecutive meetings of the Council,
- (3) on his absence out of India for six consecutive months ;
- (4) on removal of his name from the register ;
- (5) on his being declared an insolvent by any competent court ;
- (6) on expiry of the term specified in section 7.

9. When the seat of any member becomes vacant, the vacancy shall be filled by election or nomination, as the case may be, in accordance with the provisions of section 5. Filling up of vacancies.

10. (1) The Council shall appoint a Registrar who shall act as secretary of the Council and who shall also act as treasurer, unless the Council shall appoint another person as treasurer. Every person so appointed shall be removable at the pleasure of the Council. Registrar and other officers.

(2) The Council may also employ such other persons as it may deem necessary for the purposes of this Act.

(3) All persons appointed or employed under this section shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

11. It shall be the duty of the Registrar to keep a register of medical practitioners and from time to time to revise the register and publish it in the prescribed manner. Such register shall be deemed to be a public document within the meaning of the Indian Evidence Act, 1872, and may be proved by a copy published in the Gazette. Medical Register.

12. (1). Except as otherwise provided in this Act, no business shall be transacted at a meeting of the Council unless at least seven members are present. Meetings of Council.

(2) Save as provided in section 14, all questions which may come before the Council shall be decided in accordance with the votes of the majority of the members present and voting at the meeting. In the case of an equality of votes the member presiding at the meeting shall have a casting-vote.

13. Subject to the sanction of the Chief Commissioner, there shall be paid to the members of the Council such fees for attendance and such reasonable travelling expenses as shall from time to time be allowed by the Council. Payment of fees and travelling expenses to members.

<sup>1</sup> Genl. Acts, Vol. I.

<sup>2</sup> Genl. Acts, Vol. II.

Persons who  
may be  
registered.

14. Subject to the provisions of section 15, every person who—

(a) is for the time being registered or qualified to be registered under the British Medical Act; or

21 and 22  
Vict., c. 90

(b) is possessed of any of the qualifications described in the schedule

shall be entitled to be registered on furnishing to the Registrar proof of such registration or qualification, whether or not such person practises or intends to practise the allopathic or any other system of medicine :

Provided that the Chief Commissioner may, after consulting the Council, permit the registration of any person who shall furnish to the Registrar proof that he is possessed of a medical degree, diploma or certificate of any University, medical college or school approved by the Council, other than those described in the schedule :

Provided further that the Council may refuse to permit the registration of any person who has been convicted of a cognizable offence as defined in the <sup>V of 1898.</sup> Code of Criminal Procedure, 1898, or who, after an inquiry at which opportunity has been given to the candidate to be heard in person or by pleader, has been held to have been guilty of infamous conduct in any professional respect by a majority of two-thirds of the members of the Council present and voting at the meeting.

Registration  
fees.

15. (1) Every person who applies to be registered under this Act shall pay a registration fee of fifteen rupees.

(2) Every registered practitioner who applies to the Registrar for registration in respect of any additional qualification obtained subsequent to registration under this Act shall pay a fee of five rupees.

Appeal  
against the  
decision of  
Registrar.

16. An appeal shall lie to the Council against any order of the Registrar under section 14 or section 15. The said appeal shall be preferred within three months from the date of the receipt by the party concerned of a copy of the order appealed against.

Alteration of  
register by  
Council.

17. (1) The Council may, if it sees fit, and after giving due notice to the person concerned and inquiring into his objections, if any, order that any entry in the register which shall be proved to the satisfaction of the Council to have been fraudulently or incorrectly made or brought about be cancelled or amended.

(2) The Council may direct the removal altogether, or for a specified period from the register of the name of any registered practitioner for the same reasons for which registration may be refused by the Council under section 14, and the second proviso thereto shall apply to any inquiry under this section. The Council may also direct that any name so removed shall be restored.

Procedure in  
inquiries and  
appeals.

18. For the purpose of any inquiry under section 14 or section 17 or of any appeal under section 16, the Council or any committee authorised by rules made



under section 25 shall be deemed to be a Court within the meaning of the  
 872. <sup>1</sup> Indian Evidence Act, 1872 ; and shall exercise all the powers of a Commis-  
 VII of sioner appointed under the Public Servants (Inquiries) Act 1850 ;<sup>2</sup> and such  
 inquiries and appeals shall be conducted, as far as may be, in accordance with  
 VII of the provisions of sections 5 and sections 8 to 20 of the said <sup>2</sup> Public Servants  
 (Inquiries) Act, 1850.

19. An appeal shall lie to the Chief Commissioner against every decision Appeal  
 of the Council under section 14 or section 17. Such appeal shall be preferred against the  
 within three months from the date of the receipt by the party concerned of a decision of  
 copy of such decision. Council.

20. No act done in the exercise of any power conferred by this Act on the Limiting of  
 Chief Commissioner or the Council or the Registrar shall be questioned in any jurisdiction of  
 civil court. civil courts.

21. It shall be lawful for the Chief Commissioner, by notification, to alter the schedule. Power of  
 Chief Com-  
 missioner  
 to alter  
 schedule.

22. (1) The Council shall have power to call on the governing body or authorities of any University, medical college or school included in or desirous of being included in the schedule, Power of  
 Council to  
 call for  
 information  
 regarding  
 efficiency of  
 teaching and  
 attend  
 examinations.

(a) to furnish such reports, returns or other information as the Council may require to enable it to judge of the efficiency of the instruction given therein in medicine and surgery and midwifery ; and

(b) to provide facilities to enable any member of the Council deputed by the Council in this behalf to be present at the examinations held by such University, college or school.

(2) If the said body or authorities refuse to comply with any such demand, the Chief Commissioner may, upon report by the Council, remove such University, college or school from the schedule or refuse to include it in the schedule.

23. If at any time it shall appear to the Chief Commissioner that the Council has neglected to exercise or has exceeded or abused any power conferred upon it under this Act or has neglected to perform any duty imposed upon it by this Act, the Chief Commissioner may notify the particulars of such neglect, excess or abuse to the Council ; and, if the Council fails to remedy such neglect, excess or abuse within such time as may be fixed by the Chief Commissioner in this behalf, the Chief Commissioner may, for the purpose of remedying such neglect, excess or abuse, cause any of the powers and duties of the Council to be exercised and performed by such agency and for such period as the Chief Commissioner may think fit. Control  
 by Chief  
 Commissioner.

<sup>1</sup> Genl. Acts, Vol. II.

<sup>2</sup> Genl. Acts, Vol. I.

Penalty for  
falsely  
pretending  
to be a  
registered  
practitioner.

24. If any person whose name is not entered in the register of registered practitioners falsely pretends that it is so entered, or uses in connection with his name or title any words or letters representing that his name is so entered, he shall, whether any person is actually deceived by such representation or not, be punishable, on conviction by a District Magistrate or a Magistrate of the first class, with a fine which may extend to three hundred rupees.

Power to  
make rules  
and by-laws.

25. (1) The Chief Commissioner may, after previous publication, make rules for the purpose of carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing provision, the Chief Commissioner may make rules—

- (i) for the election of members to the Council under sections 5 and 6 ;
- (ii) for the election of the Vice-President of the Council ;
- (iii) for the appointment of a Committee for the purpose of holding any inquiry under section 14 or section 17 ;
- (iv) for the regulation of the procedure at an inquiry held under section 14 or section 17 ;
- (v) for the institution, hearing and disposal of appeals under section 16 or section 19 ;
- (vi) for the compilation and publication of the register ;
- (vii) for the disposal of fees received under this Act.

(3) The Council may, with the previous sanction of the Chief Commissioner, make by-laws—

- (i) for the convening of meetings of the Council ;
- (ii) for the conduct of business at such meetings ;
- (iii) for the appointment, control, pay and allowances of the establishment employed under section 10.

### THE SCHEDULE.

(See Sections 14, 21 and 22.)

(1) The degree of Doctor, Bachelor or Licentiate of Medicine, or Master of Obstetrics, or Master, Bachelor or Licentiate of Surgery, of the University of Calcutta, Bombay, Madras, Allahabad or Lahore.

(2) A diploma or certificate granted by the Local Government or by a Medical School not maintained but recognized by the Local Government, for the purposes of this Schedule, by notification, to any person trained in a Government Medical College or School in India or in a Medical School in India not maintained by Government but recognized as aforesaid, declaring him to be qualified—

- (a) to practise medicine, surgery and midwifery, or
- (b) to perform the duties of a Military Assistant Surgeon, Hospital Assistant, or Sub-Assistant Surgeon.

## THE CENTRAL PROVINCES LAND ALIENATION ACT, 1916.

(C. P. ACT No. II of 1916.)

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CENTRAL PROVINCES ACT No. II of 1916.<sup>1</sup>

[THE CENTRAL PROVINCES LAND ALIENATION ACT, 1916.]

## An Act to amend the law relating to the alienation of land in the Central Provinces.

WHEREAS it is expedient to amend the law relating to the alienation of land in the Central Provinces ;

It is hereby enacted as follows :—

## PRELIMINARY.

Short title,  
extent and  
commence-  
ment.

1. (1) This Act may be called the Central Provinces Land Alienation Act, 1916.

(2) It shall extend only to such areas of the Central Provinces as the Chief Commissioner may, from time to time, notify<sup>2</sup> in this behalf in the Gazette.

(3) It shall come into force on such day<sup>3</sup> as the Chief Commissioner may, by notification, direct.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(1) the expression “agricultural year,” “*lambardar*,” “*mahal*,” “*proprietor*,” “*record-of-rights*,” “*rent*,” “*sir-land*” and “*tenant*” shall, subject to the provisions of this Act, have the meanings assigned to them in section 4 of the “Central Provinces Land Revenue Act, 1881 ;

XVIII of  
1881.

(2) the expression “*land*” means land which is not occupied as the site of any building in a town or village and is occupied or let for agricultural purposes or for purposes subservient to agriculture or for pasture, and includes—

- (a) the sites of buildings and other structures on such land ;
- (b) a share in the profits of a *mahal* or *sir-land* ;
- (c) any sum payable under a sub-settlement by an inferior proprietor to a superior proprietor ;
- (d) a right to receive rent ;
- (e) any right to water enjoyed by the owner or occupier of land as such ; and
- (f) any rights enjoyed by the proprietor in the waste land or the forest produce of a *mahal* ;

<sup>1</sup> For Statement of Objects and Reasons, see Central Provinces Gazette, 1916, Pt. VII, p. 8, and for Proceedings in Council, see *ibid*, 1916, Pt. VIII, pp. 43 and 294.

<sup>2</sup> For notification under s. 1 (2) extending the Act to certain areas, see the Central Provinces Gazette, 1917, Pt. I, p. 462.

<sup>3</sup> The 15th April, 1917, see Central Provinces Gazette, 1917, Pt. I, p. 462.

<sup>4</sup> The C. P. Land Revenue Act, 1881, has been repealed and re-enacted by the Central Provinces Land Revenue Act, 1917 (C. P. Act, II of 1917), *infra*, p. 391.

(3) the expression "permanent alienation" includes sales, exchanges, gifts and wills, but does not include any gift for a religious or charitable purpose whether made *inter vivos* or by will ;

(4) the expression "usufructuary mortgage" means a mortgage by which the mortgagor delivers proprietary possession of the mortgaged land to the mortgagee, and authorises him to retain such possession until payment of the mortgage money, and to receive the rents and profits of the land and to appropriate them in lieu of interest or in payment of the mortgage money or partly in lieu of interest and partly in payment of the mortgage money ;

(5) the expression "conditional sale" includes any agreement whereby in default of payment of the mortgage money or interest at a certain time the land will be absolutely transferred to the mortgagee, and any agreement whereby the mortgagor binds himself to repay the money on a certain date, and transfers the mortgaged property absolutely to the mortgagee, but subject to a proviso that he will retransfer it to the mortgagor upon payment of the mortgage money as agreed ;

XVIII of  
1879.

(6) the expression "legal practitioner" means any legal practitioner within the meaning of the <sup>1</sup> Legal Practitioners Act, 1879 ; and

XVIII of  
1881.

(7) the expression "Revenue Officer" means an officer appointed under Chapter II of the <sup>2</sup> Central Provinces Land Revenue Act, 1881.

3. The Chief Commissioner shall, <sup>3</sup> by notification, determine what bodies of persons in any area are to be deemed aboriginal tribes for the purposes of this Act :

Aboriginal  
tribes.

Provided that, in respect of land which he holds in other than proprietary right, no person shall be deemed, for the purposes of this Act, to be a member of an aboriginal tribe.

#### PERMANENT ALIENATION OF LAND.

4. (1) A person who desires to make a permanent alienation of his land shall be at liberty to make such alienation where—

(a) the alienor is not a member of an aboriginal tribe ; or

(b) the alienor is a member of an aboriginal tribe and the alienee is a member of the same or a different aboriginal tribe.

Sanction of  
Deputy Com-  
missioner  
required to  
certain  
permanent  
alienations.

(2) Except in the cases provided for in sub-section (1), a permanent alienation of land shall not take effect as such unless and until sanction is given thereto by the Deputy Commissioner of the district in which the land is situated :

<sup>1</sup> Genl. Acts, Vol. III.

<sup>2</sup> See now the Central Provinces Land Revenue Act, 1917 (C. P. Act II of 1917), *infra*, p. 391.

<sup>3</sup> For notification under s. 3 declaring certain tribes to be aboriginal tribes, see the Central Provinces Gazette, 1917, Pt. I, p. 402. As to exclusion of any person from the operation of any notification issued under s. 3, see s. 20, *infra*.

Provided that sanction may be given after the act of alienation is otherwise completed.

(3) The Deputy Commissioner shall enquire into the circumstances of the alienation and shall have discretion to grant or refuse, by an order in writing, the sanction required by sub-section (2).

Saving for  
rights in  
land alienated.

5. If the Deputy Commissioner sanctions a permanent alienation of land his order shall not be taken to decide any question of title or any question relating to any reversionary right or to any right of pre-emption.

#### TEMPORARY ALIENATION OF LAND.

Forms of  
mortgage  
permitted  
in certain  
cases.

6. (1) A mortgage of his land by a member of an aboriginal tribe shall be in one of the following forms :—

- (a) In the form of a usufructuary mortgage, by which the mortgagor delivers proprietary possession of the land to the mortgagee and authorises him to retain such possession and to receive the rents and profits of the land in lieu of interest and towards payment of the principal on condition that after the expiry of the term agreed on, or (if no term is agreed on, or if the term agreed on exceeds twenty years) after the expiry of twenty years, the land shall be delivered to the mortgagor; or
- (b) in the form of a mortgage without possession subject to the condition that, if the mortgagor fails to pay principal and interest according to his contract, the mortgagee may apply to the Deputy Commissioner to place him in possession for such term, not exceeding twenty years, as the Deputy Commissioner may consider to be equitable, the mortgage to be treated as a usufructuary mortgage for the term of the mortgagee's possession and for such sum as may be due to the mortgagee on account of the balance of principal due and of interest due not exceeding the amount claimable as simple interest at such rate and for such period as the Deputy Commissioner thinks reasonable; or
- (c) in the form of a written usufructuary mortgage by which the mortgagor recognises the mortgagee as a landholder and himself remains in cultivating occupancy of the land as a tenant for such term as may be agreed upon, subject to the condition that if the mortgagor is ejected, or surrenders or abandons cultivating occupancy of the land, the mortgage shall take effect as a usufructuary mortgage in form (a) for such term not exceeding twenty years from the date of the ejection, surrender or abandonment, and for such sum of money as the Deputy Commissioner considers reasonable; or

(d) in any form which the Chief Commissioner may, by general or special order, permit to be used.

(2) The Deputy Commissioner, if he accepts the application of a mortgagee under sub-section (1), form (b), shall have power to eject the mortgagor and, as against the mortgagor, to place the mortgagee in possession.

7. In the case of mortgages made under section 6, sub-section (1)—

Rules  
applying to  
permitted  
mortgages.

(1) no interest shall accrue during the period for which the mortgagee is in possession of the land, or is in receipt of rent;

(2) if the mortgage is in form (a) or form (b), then at the end of such period of possession the mortgage-debt shall be extinguished;

(3) the mortgagor may redeem his land at any time during the currency of the mortgage, on payment of the mortgage-debt, or in the case of a mortgage in form (a) or form (b), of such proportion of the mortgage-debt as the Deputy Commissioner determines to be equitable:

(4) in the case of a usufructuary mortgage, the mortgagor shall not be deemed to bind himself personally to pay the mortgage money; and

(5) if a mortgagor who has applied to the Deputy Commissioner under sub-section (3) proves to the satisfaction of the Deputy Commissioner that he has paid the mortgage-debt, or such proportion of the mortgage-debt as the Deputy Commissioner has determined to be equitable, or deposits with the Deputy Commissioner the amount of such mortgage-debt or of such proportion thereof, the redemption of the land shall be deemed to have taken place, and the Deputy Commissioner shall have power to eject the mortgagee, if in possession, and, as against the mortgagee, to place the mortgagor in possession.

8. (1) In a mortgage made under section 6, sub-section (1), the following conditions may be added by agreement between the parties :—

Conditions in  
permitted  
mortgages.

(a) a condition fixing the time of the agricultural year at which a mortgagor redeeming his land may resume possession thereof;

(b) conditions limiting the right of a mortgagor or mortgagee in possession to cut, sell or mortgage trees or do any act affecting the permanent value of the land; and

(c) any condition which the Chief Commissioner may, by general or special order, declare to be permissible.

(2) In mortgages made under section 6, sub-section (1), any condition not permitted by or under this Act shall be null and void.

9. (1) If, after the commencement of this Act, a member of an aboriginal tribe makes a mortgage of his land in any manner or form not permitted by

Power to  
revise  
mortgages

made in  
form not  
permitted and  
mortgages by  
conditional  
sale.

or under this Act, the Deputy Commissioner shall have authority to revise and alter the terms of the mortgage so as to bring it into accordance with such form of mortgage permitted by or under this Act as the mortgagee appears to him to be equitably entitled to claim.

(2) If a member of an aboriginal tribe has, before the commencement of this Act, made a mortgage of his land in which there is a condition intended to operate by way of conditional sale, the Deputy Commissioner shall have authority to put the mortgagee to his election whether he will agree to the said condition being struck out, or will accept, in lieu of the said mortgage, a mortgage in form (a) as provided by section 6, sub-section (1), which shall be made for such period not exceeding the period permitted by the said section and for such sum of money as the Deputy Commissioner considers to be equitable.

(3) If a suit is instituted in any Civil Court on a mortgage to which sub-section (1) applies, or if a suit for the enforcement of a condition intended to operate by way of conditional sale in a mortgage, made before the commencement of this Act, is instituted or is pending at the commencement of this Act, in any Civil Court, or if an appeal in any such suit is instituted or is pending at the commencement of this Act, the Court shall, if it finds that the mortgage is enforceable or that the mortgagee is entitled to a decree absolute for foreclosure, refer the case to the Deputy Commissioner with a view to the exercise of the power conferred by sub-sections (1) and (2) respectively.

(4) When a mortgagee put to his election under sub-section (2) agrees to accept in lieu of his mortgage a mortgage in form (a) as permitted by section 6 for the period and for the sum of money considered by the Deputy Commissioner to be reasonable, and the mortgagor cannot be found, or fails to appear when duly served with notice to do so, or refuses or neglects to execute such mortgage, the Deputy Commissioner shall have authority to execute such mortgage on such terms as to costs as he may fix, and the mortgage so executed shall have effect as if it had been executed by the mortgagor :

Provided that the Deputy Commissioner may, for any reason which he deems sufficient, set aside any *ex-parte* proceedings taken under this sub-section.

Future  
mortgages  
by way of  
conditional  
sale not  
permitted.

10. In any mortgage of land made by a member of an aboriginal tribe after the commencement of this Act any condition which is intended to operate by way of conditional sale shall be null and void.

Leases.

11. Any member of an aboriginal tribe may make a lease of the land of which he is proprietor for any term not exceeding twenty years, and any



lease of such land made by a member of an aboriginal tribe for a longer period than twenty years shall, if the lessee is not a member of the same or a different aboriginal tribe, be deemed to be a lease for the term permitted by this section.

12. (1) During the currency of a mortgage made under section 6, sub-section (1), in form (a) or form (b), or of a lease under this Act, the proprietor shall be at liberty to make a further alienation of the same land for such term as, together with the term of the current mortgage or lease, will make up a term not exceeding the full term of twenty years.

Restriction on power to make further temporary alienation.

(2) Any such further temporary alienation, if made for a longer term than is permitted by this section, shall be deemed to be a temporary alienation for the term permitted by this section.

13. If a mortgagee or lessee holding possession under a mortgage made under section 6, sub-section (1), or under a lease made under section 11 or under a mortgage or lease made under section 12 remains in possession after the expiry of the term for which he is entitled to hold under his mortgage or lease, the Deputy Commissioner may, of his own motion or on the application of the person entitled to possession, eject such mortgagee or lessee and place the person so entitled in possession.

Ejection of mortgagee or lessee remaining in possession after term.

#### GENERAL PROVISIONS.

14. Any permanent alienation which under section 4 is not to take effect as such until the sanction of the Deputy Commissioner is given thereto shall, until such sanction is given or if such sanction has been refused, take effect as a usufructuary mortgage in form (a) permitted by section 6, sub-section (1), for such term not exceeding twenty years and on such conditions as the Deputy Commissioner considers to be reasonable.

Effect of permanent alienation made without sanction.

15. Every agreement whereby a member of an aboriginal tribe purports to alienate or charge the produce of his land or any part of, or share in, such produce for more than one year shall not take effect for more than one year from the date of the agreement, unless the sanction of the Deputy Commissioner is given thereto, and shall, until such sanction is given or if such sanction is refused, take effect as if it had been made for one year.

Sanction of Deputy Commissioner required to certain alienations or charges on produce of land.

16. (1) No land belonging to a member of an aboriginal tribe shall be sold in execution of any decree or order of any Civil or Revenue Court made after the commencement of this Act, nor shall a receiver be appointed to manage such land under section 51 of the <sup>1</sup>Civil Procedure Code, 1908.

Execution sale of land forbidden.

† 1908.

(2) Nothing in this section shall affect the right of Government to recover arrears of land-revenue or any dues which are recoverable as arrears of land-revenue in any manner permitted by law.

Transfer to  
Deputy Com-  
missioner  
of certain  
decrees for  
arrears of  
land-revenue  
or profits.

17. When in execution of a decree obtained—

- (a) by a lambardar against a co-sharer for arrears of land-revenue, or
- (b) by a superior proprietor against an inferior proprietor for arrears of any sum payable under a sub-settlement, or
- (c) by a co-sharer against a lambardar for a share in the profits of a mahal,

a Court would, but for the provisions of section 16, order sale of any land belonging to a member of an aboriginal tribe, such Court shall send the decree to the Deputy Commissioner who shall proceed in the manner prescribed in section 19.

Registration.

18. Notwithstanding anything in the <sup>1</sup> Indian Registration Act, 1908, or XVI of : in any rules made under section 69 of that Act,—

- (1) an instrument which contravenes any provision of this Act shall not be admitted to registration ;
- (2) an instrument which records or gives effect to any transaction which requires the sanction of the Deputy Commissioner shall not be admitted to registration unless sanction to such transaction has been endorsed on the instrument by such authority and in such manner as the Chief Commissioner may direct.

Transfer to  
Deputy  
Commissioner  
of decrees  
on certain  
mortgages.

19. (1) When a Civil Court passes a decree against a member of an aboriginal tribe on a mortgage made before the commencement of this Act, not being a mortgage with a condition intended to operate by way of conditional sale and such decree would, but for the provisions of section 16, be executed by sale of land, the Court shall transfer the execution of the decree to the Deputy Commissioner, who shall offer the decree-holder in full satisfaction of his decree, a mortgage in form (a) or form (b) of section 6, sub-section (1), for such period not exceeding twenty years as the Deputy Commissioner considers reasonable.

(2) The mortgage specified in sub-section (1) shall be executed by the Deputy Commissioner on behalf of the mortgagor.

Report of  
succession or  
transfer of  
possession.

20. (1) When, by reason of any transaction which under this Act requires the sanction of a Deputy Commissioner, a person claims to have acquired a right the acquisition whereof he is bound to report under section 126 of the <sup>2</sup>Central Provinces Land Revenue Act, 1881, such person shall, in making such <sup>XVIII of 1881.</sup> report, state whether the sanction required has been obtained or not, and his right so acquired shall not be entered in the record-of-rights or in any paper or register maintained under section 125 of the <sup>2</sup>Central Provinces Land Revenue Act, 1881, until he produces such evidence of the order by which

<sup>1</sup> Genl. Acts, Vol. VI.

<sup>2</sup> See now the Central Provinces Land Revenue Act, 1917 (C. P. Act, II of 1917), *infra*, p. 391.

such sanction is given as may be required by any rules made under this Act.

(2) No right claimed by reason of any transaction or condition which is declared by this Act to be null and void shall be entered in the record of rights or in any paper or register maintained under section 125 of the <sup>1</sup> Central Provinces Land Revenue Act, 1881.

21. The powers conferred by this Act upon a Deputy Commissioner may be exercised by a Revenue Officer of higher rank or by any officer authorised by the Chief Commissioner in this behalf.

Exercise of powers of Deputy Commissioner.

22. Subject to the provisions of this Act, the provisions of Chapter II of the <sup>1</sup> Central Provinces Land Revenue Act, 1881, shall, in so far as they are applicable, apply to the proceedings of Revenue Officers under this Act.

Application of certain provisions of the Central Provinces Land Revenue Act, 1881.

23. No legal practitioner shall appear on behalf of any party interested in any proceeding before a Revenue Officer under this Act.

Appearance of legal practitioners forbidden.

24. (1) A Civil Court shall not have jurisdiction in any matter which the Chief Commissioner or a Revenue Officer is empowered by this Act to dispose of.

Jurisdiction of Civil Courts barred.

(2) No Civil Court shall take cognizance of the manner in which the Chief Commissioner or any Revenue Officer exercises any power vested in him under this Act.

25. (1) Notwithstanding anything contained in the <sup>2</sup> Code of Civil Procedure, 1908, or in any other Act for the time being in force, every Civil Court which passes a decree or order involving the permanent alienation, mortgage or lease by a member of an aboriginal tribe of his land shall send to the Deputy Commissioner a copy of such decree or order.

Civil Court to send copy of decree or order to Deputy Commissioner.

(2) When it appears to the Deputy Commissioner that any Civil Court has, after the commencement of this Act, passed a decree or order contrary to any of the provisions thereof, the Deputy Commissioner may, within two months of the date upon which he is informed of such decree or order, apply for the revision of such decree or order to the Court, if any, to which an appeal would lie from such decree or order, or in any other case to the Court of the Judicial Commissioner and if the Court finds that such decree or order is contrary to any of the provisions of this Act, it shall alter it so as to make it consistent with this Act.

Action to be taken by Deputy Commissioner when decree or order passed contrary to Act.

(3) When any such appellate Court passes an order rejecting such application, the Deputy Commissioner may, within two months after the date upon

<sup>1</sup> See now the Central Provinces Land Revenue Act, 1917 (C. P. Act II of 1917), *infra*, p. 391.

<sup>2</sup> Genl. Act, Vol. VI.

which he is informed of such order, apply to the Court of the Judicial Commissioner for revision thereof.

(4) Every Civil Court which passes an order on any application, made under this section shall forthwith send a copy thereof to the Deputy Commissioner.

(5) No stamp shall be required upon such application, and the provisions of the <sup>1</sup> Code of Civil Procedure, 1908, as regards appeals shall apply so far as may be, to the procedure of the Court on receipt of such application :

Provided that no appearance by or on behalf of the Deputy Commissioner shall be deemed necessary for the disposal of the application.

Exclusion of particular person from aboriginal tribe.

26. The Chief Commissioner may, by notification, exclude any person from the operation of any notification made under section 3 declaring any body of persons to be deemed to be an aboriginal tribe.

Power to make rules.

27. (1) The Chief Commissioner may make rules <sup>2</sup> for carrying into effect the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power ; the Chief Commissioner may make rules prescribing the Revenue Officers to whom applications under this Act may be made, and the manner and form in which such applications shall be made and disposed of.

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## THE CENTRAL PROVINCES COURTS ACT, 1917.

[ C. P. ACT No. I OF 1917. ]

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<sup>1</sup> Genl. Acts, Vol. VI.

<sup>2</sup> For general rules made under s. 27, see the Central Provinces Gazette, 1917, Pt. I, p. 610.

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CENTRAL PROVINCES ACT No. 1 of 1917<sup>1</sup>.

[THE CENTRAL PROVINCES COURTS ACT, 1917.]

An Act to consolidate and amend the law relating to the Courts  
in the Central Provinces.

WHEREAS it is expedient to consolidate and amend the law relating to the Courts in the Central Provinces ;

AND WHEREAS the previous sanction of the Governor General required by <sup>5 and 6</sup> section 79, sub-section (2), of the Government of India Act, 1915, has been <sup>Geo. 5 c</sup> obtained to the passing of this Act :

It is hereby enacted as follows :—

## CHAPTER I.

## PRELIMINARY.

1. (1) This Act may be called the Central Provinces Courts Act, 1917.
- (2) It extends to the whole of the Central Provinces ; and
- (3) It shall come into force<sup>2</sup> on such day as the Local Government may, by notification, direct.

Short title,  
extent and  
commence-  
ment.

<sup>1</sup> For Statement of Objects and Reasons, see Central Provinces Gazette, 1916, Pt. VII, p. 125 ; for Report of Select Committee, see *ibid.*, 1917, Pt. VII, p. 1, and for Proceedings in Council, see *ibid.*, 1916, Pt. VIII, p. 363 and 1917, Pt. VIII, p. 116.

<sup>2</sup> The Act was brought into force on 14th May, 1917, see Central Provinces Gazette, 1917, Pt. I, p. 489.

2. In this Act "value," used with reference to a suit or original proceeding, means the amount or value of the subject-matter of such suit or original proceeding. Definition of "value."

## CHAPTER II.

### THE COURT OF THE JUDICIAL COMMISSIONER.

3. The Court of the Judicial Commissioner of the Central Provinces shall be the highest Civil Court of Appeal, and, except in reference to proceedings against European British subjects and persons jointly charged with European British subjects, the highest Court of Criminal Appeal and Revision in and for the territories to which this Act extends. Jurisdiction of Court of Judicial Commissioner.

4. (1) The Court of the Judicial Commissioner shall consist of four or more Judges, of whom one at least shall be an Advocate of the Court or a barrister or pleader of not less than ten years' standing. Constitution of Court of Judicial Commissioner.

(2) Of such Judges, one, who shall be the Judicial Commissioner, shall be appointed by the Governor General in Council, and the others, who shall be Additional Judicial Commissioners, shall be appointed by the Local Government with the previous sanction of the Governor General in Council.

(3) Every person appointed under this section shall hold his office during the pleasure of the Governor General in Council.

5. (1) The Judicial Commissioner shall have rank and precedence before the other Judges of his Court. Rank and precedence of Judges.

(2) The Additional Judicial Commissioners shall have rank and precedence among themselves according to the seniority of their appointment as such Additional Judicial Commissioners :

Provided that an Additional Judicial Commissioner permanently appointed shall be deemed to be senior to, and to have rank and precedence before, a Judge who is not permanent.

(3) In this Act the expression "the Senior Judge" shall mean the Judge for the time being entitled to the first place in rank and precedence.

6. (1) Except as otherwise provided by this Act or by any other enactment for the time being in force, and subject to any rules made under this Act, the jurisdiction of the Court of the Judicial Commissioner may be exercised by a single Judge of the Court. Exercise of jurisdiction by Judges of Court of Judicial Commissioner.

(2) The Court of the Judicial Commissioner may, with the sanction of the Local Government, make rules<sup>1</sup> to provide, in such manner as it thinks fit, for the exercise of any of its powers by a Bench of two or more Judges of the Court.

<sup>1</sup> For rules made under section 6(2), see Central Provinces Gazette, 1917, Pt. I, p. 687.

Constitution  
of Full Bench  
and other  
Benches.

7. (1) The Court of the Judicial Commissioner may make rules declaring what number of Judges, not being less than three, shall constitute a Full Bench of the Court, and may by such rules prescribe the mode of determining which Judges shall sit as a Full Bench when such sitting becomes necessary.

(2) Subject to the provisions of sub-section (1), the Judicial Commissioner may determine which Judge in each case or class of cases shall sit alone and which Judges shall constitute any Bench.

Power of  
Judicial Com-  
missioner  
to transfer  
cases.

8. The Judicial Commissioner may transfer any case, whether the hearing has or has not commenced, from the file of any Judge sitting alone to the file of any other Judge of the Court.

Power to  
refer  
question to  
Bench or  
Full Bench.

9. Any single Judge of the Court of the Judicial Commissioner, and any Bench of Judges thereof not being a Full Bench, may refer for the decision of a Bench of two Judges or of a Full Bench any question of law or custom having the force of law, or of the construction of any document, or of the admissibility of any evidence, arising in any case before the Judge or Bench, and shall dispose of the case in accordance with the decision of the Bench to which the question has been referred.

Rule of  
decision  
where Judges  
differ.

10. Except as otherwise provided by any enactment for the time being in force,—

(a) where there is a difference of opinion among the Judges composing any Bench of the Court of the Judicial Commissioner, the decision shall be in accordance with the opinion of the majority of those Judges ;

(b) if there is no such majority, then,—

(i) if the Bench is a Full Bench, the decision shall be in accordance with the opinion of the senior Judge of the Bench ;

(ii) in other cases, the Bench before which the difference has arisen shall refer it to another Judge of the Court and shall dispose of the case in accordance with the decision of such Judge.

Registrar  
and minis-  
terial officers  
of Court of  
Judicial  
Commissioner.

11. (1) The Registrar and the Deputy Registrar of the Court of the Judicial Commissioner shall be appointed by the Local Government.

(2) The ministerial officers of the Court shall be appointed by the Judicial Commissioner.

Power of  
Court of  
Judicial  
Commissioner  
to make  
rules.

12. (1) In addition to any other powers to make rules expressly or by implication conferred by this Act, the Court of the Judicial Commissioner, with the previous sanction of the Local Government, may, from time to time by notification, make rules <sup>1</sup> consistent with this Act and any other enactment for the time being in force,—

(a) declaring what persons shall be permitted to practise as petition-writers in the Courts of the Central Provinces, regulating the

<sup>1</sup> For rules made under section 12 (1) (f) and (g), see Central Provinces Gazette, 1917, Pt. I, pp. 540 and 929.



conduct of the business of persons so practising, determining the authority by which breaches of rules under this clause shall be dealt with, and prescribing the procedure to be followed by such authority ;

- (b) providing for the translation of any papers filed or produced in the Court of the Judicial Commissioner, for the copying of any such papers or their translations, and for requiring payment of the expenses thereby incurred ;
- (c) prescribing the persons who shall be entitled to inspect a record of any Court, regulating the procedure for the inspection of such record or for obtaining a copy of the same, and prescribing the fees payable for such inspection and for copies ;
- (d) prescribing the travelling and other expenses to be allowed to witnesses in civil cases, and the fees to be allowed to Commissioners appointed by Civil Courts ;
- (e) prescribing costumes to be worn in Court by the Judges of the Judicial Commissioner's Court and the Courts subordinate thereto and by legal practitioners ;
- (f) conferring and imposing on the ministerial officers of the Court of the Judicial Commissioner and of the Courts subordinate thereto such powers and duties of a non-judicial or quasi-judicial nature as it thinks fit, and regulating the mode in which powers and duties so conferred and imposed shall be exercised and performed ;
- (g) prescribing forms and registers to be used in the subordinate Courts ;
- (h) providing for the inspection of the subordinate Courts, and the supervision of the working thereof ; and
- (i) regulating all such matters as it may think fit, with a view to promoting the efficiency of the judicial and ministerial officers of the Courts of the Central Provinces and maintaining proper discipline among such officers.

(2) Whoever commits a breach of any rule made under sub-section (1), clause (a), shall be punishable with fine which may extend to fifty rupees.

(3) The power to make rules under sub-section (1), clauses (a), (b), (c) and (d), shall be subject to the condition of the rules being made after previous publication.

13. The Court of the Judicial Commissioner shall keep such registers, books and accounts as may be necessary for the transaction of the business of the Court, and shall comply, in such form and manner as the Local Government may deem proper, with any requisitions which the Local Government may

Registers,  
books and  
accounts,  
returns,  
statements  
and reports.

make for records of, or papers belonging to, the Court of the Judicial Commissioner or any Civil Court subordinate thereto, or for certified copies of, or extracts from, such records or papers, or for returns, statements or reports.

### CHAPTER III.

#### THE SUBORDINATE CIVIL COURTS.

##### *Classes of Courts.*

Classes of  
Courts.

14. Besides the Court of the Judicial Commissioner, the Courts of Small Causes established under the Provincial Small Cause Courts Act, 1887,<sup>1</sup> and IX of 18 the Courts established under any other enactment for the time being in force, there shall be the following classes of Civil Courts in the territories to which this Act extends, namely :—

- (a) the District Court;
- (b) the Court of the Subordinate Judge ; and
- (c) the Court of the Munsiff.

##### *Territorial Divisions and Establishment of Subordinate Courts.*

Civil  
districts.

15. For the purposes of this Act, the Local Government<sup>2</sup> shall divide the Province into such civil districts as it may think fit, and may alter the limits or the number of the said civil districts.

Establishment  
of Courts.

16. The Local Government shall establish<sup>3</sup>—

- (a) a District Court for each civil district, and
- (b) so many Courts of Subordinate Judges and Munsiffs respectively for each civil district as it may think fit.

##### *Jurisdiction of Subordinate Courts.*

Original  
jurisdiction  
of District  
Courts and  
of Courts of  
Subordinate  
Judge and  
Munsiff.

17. (1) Subject to the provisions of the <sup>4</sup>Code of Civil Procedure, 1908, v of 190 the <sup>5</sup>Provincial Small Cause Courts Act, 1887, and any other enactment for IX of 18 the time being in force,—

- (a) the Court of the Munsiff shall have jurisdiction to hear and determine any suit or original proceeding of a value not exceeding one thousand rupees :

<sup>1</sup> General Acts, Volume IV.

<sup>2</sup> For notifications issued under section 15, declaring the limits of certain districts, see *Central Provinces Gazette*, 1917, Part I, page 533.

<sup>3</sup> For notifications under section 16, establishing certain District Courts and Courts of Subordinate Judges and Extra Munsiffs, see *Central Provinces Gazette*, 1917, Part I, pages 533, 534, 535 and 751.

<sup>4</sup> General Acts, Volume VI.

<sup>5</sup> General Acts, Volume IV.

Provided that the Local Government may, on the recommendation of the Judicial Commissioner, direct, by notification, with respect to any Munsiff named therein that his jurisdiction may extend to suits and original proceedings of such value not exceeding two thousand rupees as may be specified in the notification ;

(b) the Court of the Subordinate Judge shall have jurisdiction to hear and determine any suit or original proceeding of a value not exceeding ten thousand rupees ;

(c) the District Court shall have jurisdiction to hear and determine any suit or original proceeding without restriction as regards the value, and shall be deemed to be the principal Civil Court of original jurisdiction in the civil district, and shall also have jurisdiction to hear and determine any original proceeding under the <sup>1</sup>Indian Divorce Act, 1869, and shall be deemed the District Court under that Act for the civil district.

1869.

(2) The local limits of the jurisdiction of the Courts specified in sub-section (1), clauses (a) and (b), shall be such as the Local Government may, by notification,<sup>2</sup> define.

1887.

18. The Local Government may, by notification, invest any District Court or any Court of a Subordinate Judge or of a Munsiff with the powers of a Court of Small Causes under the Provincial Small Cause Courts Act, 1887,<sup>3</sup> up to such value not exceeding five hundred rupees in the case of a District Court or of the Court of a Subordinate Judge or two hundred rupees in the case of the Court of a Munsiff as it thinks fit, to be exercised in cases arising within the limits of the Court's jurisdiction or in any specified area within such limits.

Power to invest certain Courts with Small Cause Court jurisdiction.

19. (1) The Judicial Commissioner may, by general or special order, authorise any Subordinate Judge to take cognizance of, or the Judge of a District Court to transfer to a Subordinate Judge under his control, any of the proceedings hereinafter mentioned or any class of those proceedings specified in such order.

Exercise by Subordinate Judge of jurisdiction of District Court in certain proceedings.

(2) The proceedings referred to in sub-section (1) are the following, namely :—

865.

(a) Proceedings under the <sup>4</sup> Indian Succession Act, 1865, and the

881.

<sup>5</sup> Probate and Administration Act, 1881, which cannot be disposed of by District Delegates.

<sup>1</sup> General Acts, Volume II.

<sup>2</sup> For notification under Section 17 (2), see *Central Provinces Gazette*, 1917, Part I, page 534.

<sup>3</sup> General Acts, Volume IV.

<sup>4</sup> General Acts, Volume I.

<sup>5</sup> General Acts, Volume III.

(b) Proceedings under the <sup>1</sup>Guardians and Wards Act, 1890.

VIII of :

(c) References by Collectors under paragraph 5 of the Third Schedule of the <sup>2</sup>Code of Civil Procedure, 1908.

V of 190:

(3) The Judge of the District Court may withdraw any such proceedings taken cognizance of by, or transferred to, a Subordinate Judge, and may either himself dispose of them or transfer them to a Court under his control competent to dispose of them.

(4) Proceedings taken cognizance of by, or transferred to, a Subordinate Judge under this section shall be disposed of by him, subject to the law and rules applicable to like proceedings when disposed of by the Judge of the District Court.

Appellate  
jurisdiction  
of the Courts.

20. Subject to the provisions of the <sup>2</sup>Code of Civil Procedure, 1908, the <sup>V</sup> of 190 <sup>1</sup>Provincial Small Cause Courts Act, 1887, and any other enactment for the <sup>IX</sup> of 18: time being in force, the Courts to which appeals are hereinafter declared to lie shall respectively have authority to hear appeals from the decrees and orders of the Courts subordinate to them, passed in the exercise of their original jurisdiction—

- (a) an appeal from the decree or order of the Court of a Munsiff shall lie to the District Court ;
- (b) an appeal from the decree or order of the Court of a Subordinate Judge shall lie—
  - (i) where the value of the suit or original proceeding in such Court does not exceed five thousand rupees, to the District Court ;
  - and
  - (ii) where the value of such suit or original proceeding exceeds five thousand rupees, to the Court of the Judicial Commissioner ;
- (c) an appeal from the decree or order of a District Court shall lie to the Court of the Judicial Commissioner.

•  
*Administrative Control.*

Superintendence and control of subordinate Courts.

21. (1) The general superintendence and control over all other Civil Courts shall be vested in, and all such Courts shall be subordinate to, the Court of the Judicial Commissioner.

(2) The Judicial Commissioner or an Additional Judicial Commissioner appointed by him shall from time to time visit, and inspect the proceedings of, the Civil Courts subordinate to the Court of the Judicial Commissioner, and shall give such directions on matters not provided for by law as may be necessary to secure the due administration of justice.

<sup>1</sup> General Acts, Volume IV.

<sup>2</sup> General Acts, Volume VI.

(2) Subject to the general superintendence and control of the Court of the Judicial Commissioner, the District Court shall superintend and control all other Civil Courts in the local area within its jurisdiction.

1908. 22. Notwithstanding anything contained in the <sup>1</sup>Code of Civil Procedure, <sup>Power to distribute business.</sup>  
 f 1887. 1908, and in the <sup>2</sup>Provincial Small Cause Courts Act, 1887, the District Court may, by order in writing, direct that any civil business cognizable by it and the Courts under its control shall be distributed among those Courts in such manner as it thinks fit:

Provided that, except in so far as it may affect the exclusive jurisdiction of a Court of Small Causes, or a court invested with the jurisdiction of a Court of Small Causes, a direction given under this section shall not empower any Court to exercise any powers or deal with any business beyond the limits of its proper jurisdiction.

23. (1) No Judge or Additional Judge of a Court under this Act shall hear or determine any suit, appeal or other proceeding to which he is a party or in which he is personally interested. <sup>Judges not to try cases in which they are personally interested.</sup>

(2) If any such suit, appeal or other proceeding comes before any Judge or Additional Judge of a subordinate Court, he shall forthwith transmit the record of the case to the Court empowered to transfer cases to which he is subordinate, with a report of the circumstances attending the reference, and such superior Court shall thereupon hear and determine the case or transfer it to some other Court.

*Appointment of Judges and Ministerial Officers of Subordinate Court.*

24. The Judges of District Courts and Subordinate Judges shall be appointed by the Local Government. <sup>Appointment of Judges and Subordinate Judges. Appointment of Munsiffs.</sup>

25. (1) The Local Government may fix the number of Munsiffs to be appointed and, when there is any vacancy in that number, the Judicial Commissioner may, subject to the rules, if any, made under sub-section (2), appoint such person to the same as he thinks fit.

(2) The Court of the Judicial Commissioner may, with the previous sanction of the Local Government, make rules as to the qualifications of persons to be appointed Munsiffs.

26. (1) The Local Government may, whenever it thinks it necessary or expedient so to do, appoint <sup>Additional Judges.</sup> an Additional Judge or Judges to any District Court, or to the Court of a Subordinate Judge or of a Munsiff, and any such Additional Judge shall exercise the jurisdiction of the Court to which he is appointed and the powers of a Judge thereof, subject to any general or

<sup>1</sup> General Acts, Volume VI.

<sup>2</sup> General Acts, Volume IV.

<sup>3</sup> For notifications under section 26 appointing Tahsildars as Additional Judges to the Courts of Munsiffs in certain places, see *Central Provinces Gazette*, 1917, Part I, pp. 534, 535 and 751.

special orders of the Local Government as to the class or value of suits and appeals which he may try, hear and determine, and subject also, in respect of the distribution of the business of the Court, to the control of the Judge thereof.

(2) An officer may be appointed an Additional Judge of one or more Courts, and an officer who is a Judge of one Court may be appointed an Additional Judge of another Court or of other Courts.

Ministerial  
officers of  
Subordinate  
Courts.

27. (1) The ministerial officers of the District Court and of the Courts of the Subordinate Judge and of the Munsiff shall be appointed by the Judge of the District Court.

(2) Every appointment made under this section shall be subject to such rules as the Local Government may, by notification, make in this behalf.

## CHAPTER IV.

### SUPPLEMENTAL PROVISIONS.

Place of  
sitting of  
Courts.

28. Every Civil Court shall be held at such place or places as the Local Government may, by notification,<sup>1</sup> direct, or, in the absence of any such direction, at any place within the local limits of the jurisdiction of the Court.

Vacations.

29. (1) Subject to the approval of the Local Government the Court of the Judicial Commissioner shall prepare a list of days to be observed in each year as holidays in his Court and in the Civil Courts subordinate thereto.

(2) The list shall be published in the Gazette.

(3) A judicial act done by a Court on a day specified in a list published under sub-section (2) shall not be invalid by reason only of its having been done on that day.

Seal.

30. Every Civil Court shall use a seal of such form and dimensions as the Local Government may prescribe on all processes and orders issued, and on all decrees passed, by it.

## CHAPTER V.

### GENERAL.

Pending pro-  
ceedings.

31. (1) Every proceeding pending in any Civil Court at the commencement of this Act shall be deemed to be transferred to the Court exercising the jurisdiction under this Act which corresponds, as far as may be, to the jurisdiction of the Court in which the proceeding was instituted, and the Court to which any proceeding is transferred shall proceed to try, hear and determine the matter as if it had been instituted in such Court.

<sup>1</sup> For notification under sections 28 and 16 jointly declaring the headquarters of certain Civil Courts, see *Central Provinces Gazette*, 1917, Part I, pages 533 and 534.

(2) Appeals from decrees and orders passed by Civil Courts and not appealed against before the commencement of this Act, shall lie to the Court exercising the jurisdiction under this Act which corresponds, as far as may be, to the jurisdiction of the Court to which such appeals would have lain if this Act had not been passed.

32. The enactments mentioned in the Schedule are hereby repealed to the Repeals extent specified in the fourth column thereof.

## THE SCHEDULE.

(See Section 32.)

1	2	3	4
Year.	Number.	Subject or short title.	Extent of repeal.
		<i>Acts of the Governor General in Council.</i>	
1904	II	The Central Provinces Courts Act, 1904 . . .	The whole Act.
1910	XI	The Central Provinces Courts (Amendment) Act, 1910.	Ditto.

## THE CENTRAL PROVINCES LAND REVENUE ACT, 1917.

[C. P. ACT No. II OF 1917.]

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CENTRAL PROVINCES ACT No. II OF 1917.<sup>1</sup>

[THE CENTRAL PROVINCES LAND REVENUE ACT, 1917.]

An Act to consolidate and amend the law relating to Land-revenue, the powers of Revenue Officers and other matters relating to land and the liabilities incident thereto in the Central Provinces.

## Preamble.

WHEREAS it is expedient to consolidate and amend the law relating to land-revenue, the powers of Revenue Officers and other matters relating to land and the liabilities incident thereto in the Central Provinces;

AND WHEREAS the previous sanction of the Governor General required by section 79, sub-section (2), of the Government of India Act, 1915, has been obtained to the passing of this Act;

5 & 6 Geo. 5,  
c. 61.

It is hereby enacted as follows :—

## CHAPTER I.

## PRELIMINARY.

## Short title.

1. (1) This Act may be called the Central Provinces Land-revenue Act, 1917.

## Local extent.

(2) It extends to the whole of the Central Provinces ; and

## Commencement.

(3) It shall come into force<sup>2</sup> on such day as the Chief Commissioner may, by notification, direct.

## Interpretation clause.

2. In this Act, unless there is anything repugnant in the subject or context,—

(1) “agricultural year” means the year commencing on the first day of June, or on such other date as the Chief Commissioner may, in the case of any specified local area, by notification, appoint :

(2) “Assistant Commissioner” includes “Extra-Assistant Commissioner” :

(3) “estate” means any collection of mahals held by the same proprietor, which the Chief Commissioner may, by notification, declare to be an estate :

<sup>1</sup> For Statement of Objects and Reasons, see *Central Provinces Gazette*, 1915, Part VII, page 119 ; for Report of Select Committee, see *ibid*, 1916, Part VII, page 11, and for Proceedings in Council, see *ibid*, 1915, Part VIII, pages 25 and 119 ; 1916, Part VIII, pages 43 and 364 ; 1917, Part VIII, pages 2—88. This Act repeals the Central Provinces Land Revenue Act, 1881, and the Central Provinces Financial Commissioner's Act, 1908—see Schedule I, *infra*. By virtue of section 23 of the Central Provinces General Clauses Act, 1914, *supra*, rules and orders made and issued under the repealed Act shall continue in force and be deemed to be made and issued under the present Act until they are superseded. For such rules and orders, see the Central Provinces Local Rules and Orders.

<sup>2</sup> The Act was brought into force on 1st September 1917, see *Central Provinces Gazette*, 1917, Part I, page 669.



(4) the "kamil-jama" of any estate, mahal or land means the land-revenue which would be payable to Government in whole or in part, if the same had not been released, compounded for or redeemed :

(5) "khudkasht" means that part of the home-farm of a mahal which is cultivated by the proprietor as such and which is not sir-land :

*Explanation (1).*—Land allowed to lie fallow according to agricultural practice shall be deemed to be cultivated.

*Explanation (2).*—In this definition, "proprietor" includes a transferee of proprietary rights in possession and a thekadar with protected status.

(6) "lambardar" means the proprietor of a mahal appointed to discharge the duties imposed on a lambardar by this Act :

(7) "legal practitioner" means any person entitled to practise in any of the Courts of the Central Provinces under the <sup>1</sup>Legal Practitioners Act, 1879 :

(8) "mahal" means—

(a) any area, not being a malik-makbuza plot or a survey-number, which has been separately assessed to land-revenue, whether such land-revenue be payable or has been released, compounded for or redeemed, in whole or in part ;

(b) any other area which the Financial Commissioner may, by general or special order, declare to be a mahal :

(9) "malik-makbuza" means any person who owns one or more plots of land separately assessed to land-revenue in a mahal :

(10) "mukaddam" means the headman of a village appointed under this Act :

(11) "patel" means the headman of a raiyatwari village appointed under this Act :

(12) "patti" means the lands in a mahal held by any co-sharer or body of co-sharers in separate ownership :

(13) "proprietor," except in sections 68, 93 and 94, includes a gaontia of a Government village in Sambalpur Territory :

(14) "recognized agent" means, subject to rules made under section 227, a person authorized in writing by any party to a proceeding under this Act to make appearances and applications and to do other acts on his behalf in such proceeding :

(15) "sadar-lambardar" means the particular lambardar appointed under this Act to represent the lambardars in their relations with Government :

(16) "Sambalpur Territory" means and includes the Phuljhar Zamindari, the Malkharoda Jagir, the Chandrapur-Padampur estate and the villages of Charra, Madhopali, Kohakunda, Badimal, Panchpurgia Soda Burlampur, Panchpurgia-Palsoda, Jogni and Jhakurpali in the Bilaspur district :

<sup>1</sup> General Acts, Volume III.

(17) "sir-land" means—

- (a) land finally recorded under section 68 as "sir-land" in the record-of-rights of the current settlement;
- (b) land declared under section 106, clause (c), to be "sir-land"; and
- (c) land in Sambalpur Territory recorded as "bhogra" in the record-of-rights of the current settlement :

Provided that land which is sir-land under this definition shall, subject to the provisions of section 68, sub-section (3), and section 106, clause (c), cease to be sir-land when it becomes the subject of a tenancy under section 45 of the Central Provinces Tenancy Act, 1898, but if, during the continuance XI of 189 of such tenancy, the person in whose favour it has accrued, or his heir upon whom it has devolved, regains the proprietary right in such land or re-enters upon the proprietary possession thereof after the termination of any contract by which such possession had been temporarily transferred or lost, such land shall again become sir-land :

*Explanation.*—If by any local custom land is liable to exchange or redistribution among the cultivators thereof, land which is not "sir-land," and which is taken in exchange for "sir-land," shall become "sir-land," and the "sir-land" given in exchange for that land shall cease to be "sir-land."

(18) "survey-number" means any area held by, or intended to be settled with, a raiyat under a separate assessment of land-revenue in a village or land which is the property of Government :

(19) the words "tenant," "absolute occupancy tenant," "occupancy tenant," "sub-tenant" and "rent" have the meanings assigned to them respectively in the Central Provinces Tenancy Act, 1898 :

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(20) "village" includes any tract of land which, at the last settlement of such land, has been recognized as a village, or which the Financial Commissioner may, from time to time, by notification, declare to be a village for the purposes of this Act :

(21) "village-cess" means whatever is paid, delivered or rendered in money, kind or service by a person resident or holding land in a village to any person or class of persons for services rendered to the community, or to the proprietors as such of the village, or to the patel :

*Explanation.*—In this definition, "proprietor" includes a transferee of proprietary rights in possession and a thekadar with protected status.

## CHAPTER II.

### REVENUE OFFICERS, THEIR CLASSES AND POWERS.

3. There shall be the following classes of the Revenue Officers, namely :—  
The Chief Commissioner ;

Revenue  
Officers.

The Financial Commissioner ;  
 Commissioners ;  
 Deputy Commissioners ;  
 Assistant Commissioners of the first and second class ;  
 The Settlement Commissioner ;  
 Settlement Officers ;  
 Assistant Settlement Officers ;  
 Tahsildars ;  
 Superintendents of Land Records ;  
 Naib-Tahsildars ;  
 Assistant Superintendents of Land Records.

4. The Chief Commissioner shall, in all revenue matters, be subject to the control of the Governor General in Council. Authority of Chief Commissioner.

5. (1) The Chief Commissioner shall appoint the Financial Commissioner. Appointment of Financial Commissioner.

(2) The Chief Commissioner, with the previous sanction of the Governor General in Council, may, by notification, assign to the Financial Commissioner, subject to such conditions and restrictions, if any, as may be prescribed, all or any powers or functions assigned to the Local Government or to the Chief Commissioner or to the Chief Controlling Revenue Authority by this or by any enactment for the time being in force. Powers and functions of Financial Commissioner.

(3) The Financial Commissioner shall be subject to the control of the Chief Commissioner.

(4) All other Revenue Officers shall be subordinate to the Chief Commissioner and the Financial Commissioner.

(5) All Revenue Officers in a division shall be subordinate to the Commissioner.

(6) Unless the Financial Commissioner otherwise directs, all Revenue Officers in a district shall be subordinate to the Deputy Commissioner.

6. (1) The Chief Commissioner may, with the previous sanction of the Governor General in Council, create new, or abolish existing, divisions. Power to create, alter and abolish divisions, districts, sub-divisions and tahsils.

(2) The Chief Commissioner may alter the limits of any division, district or tahsil, and may create new, or abolish existing, districts or tahsils, and may divide any district into sub-divisions, and may alter the limits of, or abolish, any sub-division.

(3) Subject to the orders of the Chief Commissioner under sub-section (2), every tahsil shall be deemed to be a sub-division of a district.

Power to  
appoint  
Commissioners of  
Divisions.

7. The Chief Commissioner shall appoint in each division a Commissioner who shall exercise therein the powers and discharge the duties conferred and imposed on a Commissioner by this Act or by any enactment for the time being in force.

Power to  
appoint  
Additional  
Commissioners.

8. (1) The Chief Commissioner may, with the previous sanction of the Governor General in Council, appoint an Additional Commissioner in a division or in two or more divisions.

(2) An Additional Commissioner shall hold his office during the pleasure of the Chief Commissioner.

(3) An Additional Commissioner shall exercise such powers and discharge such duties of a Commissioner in such cases or class of cases as the Chief Commissioner, or, in the absence of orders from the Chief Commissioner, as the Commissioner of the division, may direct.

(4) This Act and every other enactment for the time being in force shall apply to the Additional Commissioner, when exercising any powers or discharging any duties under sub-section (3), as if he were the Commissioner of the division.

Power to  
appoint  
Deputy  
Commissioners.

9. The Chief Commissioner shall appoint in each district a Deputy Commissioner who shall exercise therein the powers and discharge the duties conferred and imposed on a Deputy Commissioner or a Collector by this Act or by any enactment for the time being in force.

Appointment  
and powers  
of Assistant  
Commissioners.

10. The Chief Commissioner may appoint to each district as many persons as he thinks fit, to be Assistant Commissioners of the first or second class, who shall exercise the powers specified in the Second Schedule.

Appointment  
of Tahsildars,  
Superintendents of Land  
Records,  
Naib Tahsildars and  
Assistant  
Superintendents of  
Land Records.

11. The Chief Commissioner may appoint to each district as many persons as he thinks fit, to be Tahsildars, Superintendents of Land Records, Naib Tahsildars and Assistant Superintendents of Land Records, and may delegate to the Financial Commissioner, Commissioner or Deputy Commissioner his power of appointing them.

Assistant  
Commissioner in  
charge of  
sub-division  
of district.

12. (1) The Chief Commissioner may place any Assistant Commissioner of the first class in charge of one or more sub-divisions of a district.

(2) Such Assistant Commissioner shall be called a Sub-divisional Officer and shall exercise the powers specified in the Second Schedule.

(3) The Chief Commissioner may delegate his powers under sub-section (1) to the Financial Commissioner, Commissioner or Deputy Commissioner.

Subordination  
of Revenue  
Officers.

13. Unless the Financial Commissioner otherwise directs, every Revenue Officer in a sub-division shall be subordinate to the Sub-divisional Officer.

14. (1) The Chief Commissioner may confer on any person the powers conferred by this Act on an Assistant Commissioner of the first class or a Tahsildar. Conferred by Chief Commissioner of Revenue Officers on officials and other persons.

(2) The Chief Commissioner may confer on any Assistant Commissioner of the first class or second class, Tahsildar or Naib-Tahsildar the powers conferred by this Act on a Revenue Officer of a higher grade.

(3) In conferring powers under this Act the Chief Commissioner may empower persons by name or classes of officials generally by their official designation.

(4) If any Revenue Officer, who has been invested with any powers under this Act in any tahsil or district, is transferred to an equal or higher office of the same nature in any other tahsil or district, he shall, unless the Chief Commissioner otherwise directs, be held to be invested with the same powers under this Act in such other tahsil or district.

15. If the Deputy Commissioner dies or is disabled from performing his duties, the officer who succeeds temporarily to the chief executive administration of the district in revenue matters shall be held to be the Deputy Commissioner under this Act until the Chief Commissioner appoints a successor to the Deputy Commissioner so dying or disabled, and such successor takes charge of his appointment. Deputy Commissioner in case of temporary vacancy.

### CHAPTER III.

#### PROCEDURE OF REVENUE OFFICERS.

16. Except for reasons to be recorded in writing no Revenue Officer shall enquire into, or hear, any case at any place outside the local limits of his jurisdiction : Place for holding enquiries.

Provided that a Sub-divisional Officer may enquire into, or hear, any case at any place within the district to which he is appointed.

17. All Revenue Officers, revenue inspectors and patwaris, and their servants and workmen when authorized, either verbally or in writing, by them, may enter upon and survey land and demarcate boundaries and do other acts connected with their duties under this or any enactment for the time being in force : Power to enter upon and survey land.

Provided that no person shall enter into any building or upon any enclosed court or garden attached to a dwelling house, unless with the consent of the occupier thereof, without giving such occupier at least twenty-four hours' notice, and in making such entry due regard shall be paid to the social and religious sentiments of the occupier.

Power of superior Revenue authorities to transfer cases.

18. The Chief Commissioner, the Financial Commissioner or the Commissioner may transfer any case or class of cases from any subordinate Revenue Officer to any other such officer competent to deal therewith.

Power to transfer cases to and from subordinates.

19. A Deputy Commissioner, a Sub-divisional Officer, a Tahsildar or a Settlement Officer may make over any case or class of cases, arising under the provisions of this Act or otherwise, for enquiry or decision, from his own file to any Revenue Officer subordinate to him competent to deal with such case or class of cases, or may withdraw any case or class of cases from any such Revenue Officer and may deal with such case or class of cases himself or refer the same for disposal to any other such Revenue Officer competent to deal therewith.

Power of Revenue Officers to require attendance of persons and production of documents and to receive evidence.

20. (1) Subject to the provisions of sections 132 and 133 of the Code of Civil Procedure, 1908,<sup>1</sup> and to rules made under section 227, every Revenue Officer shall have power to summon any person whose attendance he considers necessary either to be examined as a party, or to give evidence as a witness or to produce any document for the purposes of any enquiry or case arising under this Act or any other enactment for the time being in force. V of 1908.

(2) A summons to produce documents may be for the production of certain specified documents or for the production of all documents of a certain description in the possession or power of the person summoned.

(3) If any person, on whom a summons has been served, fails to comply with the summons, the officer by whom the summons has been issued may issue a bailable warrant for the arrest of such person.

(4) No person shall be ordered to attend in person unless he resides—

(a) within the local limits of the Revenue Officer's jurisdiction; or

(b) without such limits but at a place less than fifty, or, where there is railway communication or other established public conveyance for five-sixths of the distance between the place where he resides and the place where he is summoned to attend, less than two hundred miles distant from such place.

(5) Any person present may be required by any Revenue Officer to give evidence or to produce any document then and there in his possession or power.

Summons to be in writing, signed and sealed.

21. (1) Every summons shall be in writing in duplicate, and shall be signed and sealed by the officer issuing it or by such person as he empowers in this behalf, and it shall specify the time and place at which the person summoned is required to attend, and also whether he is required to give evidence or to produce a document.

<sup>1</sup> General Acts, Volume VI.

(2) Every summons shall be served by tendering or delivering a copy of it to the person summoned, or if he cannot be found or refuses to accept service of the summons, by affixing a copy of it to some conspicuous part of his usual residence, and if such person resides in another district, the summons may be sent by post to the Deputy Commissioner of such district for service. Mode of serving summons. Service in district other than that of issue.

22. Subject to the provisions of this Act, whoever is summoned to appear before a Revenue Officer to give evidence shall attend at the time and place named in the summons for that purpose, and whoever is summoned to produce a document shall either attend to produce it, or cause it to be produced, at such time and place. Mode of compliance with summons.

23. Every notice under this Act may be served either by tendering or delivering a copy thereof, or sending such copy by post in a cover registered under the Indian Post Office Act, 1898, to the person on whom it is to be served, or his authorized agent or, if service in the manner aforesaid cannot be made, by affixing a copy thereof at his last known place of residence or at some place of public resort in the village in which the land to which the notice relates is situated or from which the land is cultivated. Mode of serving notice.

24. Whenever a proclamation is issued under this Act, copies thereof shall be posted in the court-house of the officer issuing it, at the head-quarters of the tahsil within which the land to which it refers is situated, and at some place of public resort on or adjacent to the land to which it refers, and, if the officer issuing it so directs, the proclamation shall be further published by beat of drum on or near the land to which it refers. Mode of issuing proclamations.

25. No notice or proclamation shall be deemed void on account of any error in the name or designation of any person or in the description of any land referred to therein, unless such error has produced substantial injustice. Notice or proclamation not void for error.

26. If any party to a case or proceeding before a Revenue Officer does not appear on the date fixed for hearing, the case may be heard and determined in his absence or may be dismissed in default. Hearing in absence of party.

27. (1) A Revenue Officer may, from time to time, adjourn the hearing of a case or proceeding before him. Adjournment of hearing.

(2) The place of an adjourned hearing of a case or proceeding shall be intimated at the time of the adjournment to such of the parties and witnesses as are present.

28. (1) Except where a case or proceeding before any Revenue Officer has been decided on the merits, no appeal shall lie from an order passed under section 26. No appeal from orders passed under section 26.

(2) The party against whom any order is passed under section 26 may apply within 30 days from the date of such order, to have it set aside on the ground that he was prevented by any sufficient cause from appearing at the

hearing, and the Revenue Officer may, after notice to the opposite party and after making such enquiry as he considers necessary, set aside the order so passed.

Power to give  
and apportion  
costs.

**29.** A Revenue Officer may give and apportion costs incurred in any case or proceeding arising under this Act or otherwise in such manner and to such extent as he thinks fit :

Provided that the fees of a legal practitioner shall not be allowed as costs in any such case or proceeding, unless such officer considers otherwise for reasons to be recorded by him in writing.

Recovery of  
fines and  
costs.

**30.** All fees, fines, costs and other moneys ordered to be paid or recoverable under this Act shall be recoverable as if they were arrears of land revenue.

Delivery of  
possession of  
immoveable  
property.

**31. (1)** If possession of immoveable property is adjudged, the officer making the order may deliver possession in the same manner, and with the same powers in regard to all contempts, resistance and the like, as may be lawfully exercised by the Civil Courts in execution of their own decrees.

(2) Rule 103, Order XXI of the First Schedule of the <sup>1</sup>Code of Civil Procedure, 1908, shall apply to any order passed in exercise of powers under sub-section (1). <sup>V of 1908.</sup>

Persons by  
whom appear-  
ances and  
applications  
may be made  
before and to  
Revenue  
Officers.

**32.** Save as otherwise provided in any other enactment for the time being in force, all appearances before, applications to, and acts to be done before, any Revenue Officer under this Act or otherwise may be made or done by the parties themselves or by their recognized agents or by any legal practitioner :

Provided that—

- (i) no legal practitioner, not entitled to appear in the court of the Judicial Commissioner of the Central Provinces, shall be entitled to appear before the Financial Commissioner ;
- (ii) subject to the provisions of sections 132 and 133 of the <sup>1</sup>Code of Civil Procedure, 1908, any such appearance shall, if the Revenue Officer so directs, be made by the party in person. <sup>V of 1908.</sup>

#### CHAPTER IV.

##### APPEAL, REVISION AND REVIEW.

Appeals.

**33. (1)** Save where otherwise provided in this Act, an appeal shall lie from every original order under this Act or the rules made thereunder—

- (a) if such order is passed by any Revenue Officer subordinate to the Deputy Commissioner or to the Settlement Officer—to the Deputy Commissioner or to the Settlement Officer, as the case may be ;



- (b) if such order is passed by a Deputy Commissioner or Settlement Officer—to the Commissioner ;
- (c) if such order is passed by the Commissioner—to the Financial Commissioner :

Provided that no appeal shall lie from any order of the Settlement Officer which can be called in question in a Civil Court.

(2) A second appeal shall lie to the Commissioner or to the Financial Commissioner, as the case may be—

- (a) if the order is an order in appeal from an assessment under section 81 ;
- (b) if the original order has in appeal been varied or reversed, otherwise than in a matter of costs ; or
- (c) on any of the following grounds and no other, namely :—
  - (i) that the order is contrary to law or usage having the force of law ;
  - (ii) that the order has failed to determine some material issue of law or usage having the force of law ;
  - (iii) that there has been a substantial error or defect in the procedure as prescribed by this Act, which may have produced error or defect in the decision of the case upon the merits.

(3) A third appeal shall lie to the Financial Commissioner on the following ground and no other, namely, that the order is contrary to law or usage having the force of law.

(4) An order passed on revision or review varying or reversing any order shall be appealable in like manner as the order so revised or reviewed.

34. No appeal shall lie from an order—

- (a) admitting an appeal or application for review on the grounds specified in section 5 of the Indian Limitation Act, 1908 ; or
- (b) rejecting an application for revision or review.

No appeal  
against  
certain  
orders.

35. No appeal shall lie—

- (a) to the Deputy Commissioner or Settlement Officer—after the expiration of thirty days from the date of the order to which objection is made ; or
- (b) to the Commissioner—after the expiration of sixty days from such date ; or
- (c) to the Financial Commissioner—after the expiration of ninety days from such date.

Limitation of  
appeals.

36. Every petition for appeal, review or revision shall be accompanied by a certified copy of the order to which objection is made unless the production of such copy is dispensed with.

Copy of order  
objected to  
to accompany  
petition.

Powers of  
appellate  
authority.

37. (1) The appellate authority may either admit the appeal or, after examining the record, summarily reject it.

(2) If the appeal is admitted, a date shall be fixed for hearing and notice thereof shall be served on the respondent.

(3) After hearing the parties, if they appear, the appellate authority may confirm, vary or reverse the order appealed against ;

or may direct such further investigation to be made, or such additional evidence to be taken, as it may think necessary ;

or may itself take such additional evidence ;

or may remand the case for disposal with such directions as it thinks fit.

Powers to stay  
execution of  
orders of  
lower court.

38. (1) If an appeal is admitted, the appellate authority may, pending the result of the appeal, direct the execution of the order appealed from to be stayed.

(2) A Revenue Officer who has passed any order, or his successor in office, may direct the execution of such order to be stayed at any time before the expiry of the period prescribed for appeal, if no appeal has been filed.

(3) If execution of any order is stayed under sub-section (1) or (2), such security may be taken or conditions imposed as the appellate authority or Revenue Officer thinks fit.

Powers of  
revision of  
superior  
Revenue  
Officers.

39. The Chief Commissioner, the Financial Commissioner, the Settlement Commissioner, any Commissioner, Deputy Commissioner or Settlement Officer may, at any time, for the purpose of satisfying himself as to the legality or propriety of any order passed by, or as to the regularity of the proceedings of, any Revenue Officer subordinate to him, call for and examine the record of any case pending before, or disposed of by, such officer, and may pass such order in reference thereto as he thinks fit :

Provided that he shall not vary or reverse any order affecting any question of right between private persons without having given to the parties interested notice to appear and be heard in support of such order.

Review of  
orders.

40. (1) Every Revenue Officer may, either on his own motion or on the application of any party interested, review any order passed by himself or by any of his predecessors in office and pass such order in reference thereto as he thinks fit :

Provided that—

- (i) if the Commissioner, Settlement Commissioner, Deputy Commissioner or Settlement Officer thinks it necessary to review any order which he has not himself passed, and if an officer subordinate to a Deputy Commissioner or Settlement Officer proposes to review any order, whether passed by himself or by any

predecessor, he shall first obtain the sanction of the officer to whom he is immediately subordinate ;

- (ii) no order shall be varied or reversed unless notice has been given to the parties interested to appear and be heard in support of such order ;
- (iii) no order from which an appeal has been made, or which is the subject of any revision proceedings, shall, so long as such appeal or proceedings are pending, be reviewed ;
- (iv) no order affecting any question of right between private persons shall be reviewed except on the application of a party to the proceedings, and no application for the review of such order shall be entertained unless it is made within ninety days from the passing of the order.

(2) For the purposes of this section the Deputy Commissioner shall be deemed to be the successor in office of any Revenue Officer who has left the district or who has ceased to exercise powers as a Revenue Officer and to whom there is no successor in the district.

(3) An order which has been dealt with in appeal or on revision shall not be reviewed by any Revenue Officer subordinate to the appellate or revisional authority.

f 1908.

41. The provisions of the <sup>1</sup>Indian Limitation Act, 1908, shall apply to all appeals and applications for review under this Act.

Application of Act IX of 1908.

## CHAPTER V.

### MAPS, RECORDS AND BOUNDARIES.

42. With the previous sanction of the Financial Commissioner, the Commissioner shall, from time to time, arrange the villages of the district in patwaris' circles and may alter the number and limits of such circles.

Power to form and alter patwaris' circles.

43. Subject to rules made under section 227, the Deputy Commissioner shall appoint a patwari to each circle for the maintenance and correction of the annual papers, and for such other duties as the Financial Commissioner may prescribe.

Appointment of patwaris.

44. (1) With the previous sanction of the Financial Commissioner, the Commissioner shall arrange the patwaris' circles of the district in revenue inspectors' circles.

Power to form revenue inspectors' circles.

(2) Subject to rules made under section 227, the Commissioner shall appoint a revenue inspector to each circle for the supervision, maintenance and correction of the annual papers, and for such other duties as the Financial Commissioner may prescribe.

Appointment of revenue inspectors.

(3) The Commissioner may, with the previous sanction of the Financial Commissioner, delegate any of his powers under sub-section (2) to the Deputy Commissioner or the Settlement Officer.

Record-of-  
rights.

45. (1) There shall be prepared at settlement, or at such other times as the Chief Commissioner may direct, for each mahal and for each estate, a record-of-rights.

(2) The record-of-rights of a mahal shall consist of the following documents :—

- (a) Khewat or statement of persons possessing proprietary rights in the mahal, including inferior proprietors or lessees or mortgagees in possession, specifying the nature and extent of the interest of each ;
- (b) Khasra or field-book, in which shall be entered the names of all persons cultivating or occupying land, the right in which it is held, and the rent, if any, payable ;
- (c) Jamabandi or list of persons cultivating or occupying land in the village ;
- (d) Field-map of the village except when otherwise directed by the Financial Commissioner ;
- (e) the village administration paper prepared under section 79 ; and
- (f) such other papers as may be prescribed by rules made under section 227.

(3) The record-of-rights of an estate shall consist of the documents specified in sub-section (2), clauses (a) and (e), and such other papers as may be prescribed by rules made under section 227.

(4) The documents specified in sub-section (2) shall be prepared in such form and shall contain such additional particulars as may be prescribed by rules made under section 227.

(5) Until a new record-of-rights is framed, the record prepared at the preceding settlement shall be the record-of-rights prescribed by this section.

Correction of  
record-of-  
rights.

46. (1) On the application of any person interested therein or of his own motion, the Deputy Commissioner may correct any entry in the record-of-rights on one or more of the following grounds and no other :—

- (a) that all persons interested in such entry wish to have it corrected ;  
or
- (b) that by a decree in a civil suit it has been declared to be erroneous ;  
or
- (c) that, being founded on a decree or order of a Civil Court or on the order of a Revenue Officer, it is not in accordance with such decree or order ; or

(d) that, being so founded, such decree or order has subsequently been varied on appeal, revision or review.

(2) The Deputy Commissioner may revise a record-of-rights when such revision is provided for therein.

47. (1) The Deputy Commissioner shall cause to be prepared, in accordance with rules made under section 227, for each mahal, annually or at such longer intervals as may be prescribed, an amended set of the documents mentioned in section 45, sub-section (2), clauses (b), (c) and (d), and the documents so prepared shall be called the "annual papers." Annual papers.

(2) The Deputy Commissioner shall cause to be recorded, in accordance with rules made under section 227, all changes that have taken place in respect of, and all transactions that have affected, any of the proprietary rights and interests in any land.

(3) The Financial Commissioner may declare the rights and interests which shall be deemed to be proprietary rights and interests within the meaning of sub-section (2).

(4) Every person lawfully entering into possession of any such proprietary right or interest shall report the fact to the Tahsildar of the tahsil in which such land is situated within six weeks from the date on which he entered into possession. Possession of proprietary right to be reported.

(5) If the person so entering into possession is a minor or of unsound mind the guardian or other person in charge of the property shall make the report specified in sub-section (4).

48. Any person neglecting to make the report specified in section 47, sub-section (4), shall be liable, on the order of a Revenue Officer not below the rank of Tahsildar, to a penalty not exceeding fifty rupees. Penalty for neglect to make report of possession.

49. (1) The Tahsildar, on receiving the report under section 47, sub-section (4), or upon the facts coming otherwise to his knowledge, shall make enquiries as regards the fact of lawful possession and, if any transfer of such possession appears to have taken place, shall record the same in accordance with rules made under section 227. Enquiries into cases of transfer of possession.

(2) If, in the course of an enquiry under sub-section (1), the Tahsildar is unable to satisfy himself as to which person is in lawful possession, he shall report the case for the orders of the Deputy Commissioner who shall decide which person is best entitled to the property, and shall cause the name of such person to be recorded in accordance with the provisions of section 47, sub-section (2).

(3) The Deputy Commissioner may put such person in possession, and may require such security or impose such conditions, if any, as he thinks fit.

(4) An order as to possession passed under this section or any delivery of possession under sub-section (3) shall not be evidence of title relating to the disputed property or any right therein in any suit in a Civil Court. But an order placing a person in possession under sub-section (3) shall be evidence that such possession has been given.

Fees for  
recording  
changes.

50. The Financial Commissioner may prescribe fees to be paid—

- (a) by the person making an application for the record of any change or transaction specified in section 47, sub-section (2); or
- (b) by the person in whose favour such change or transaction is recorded, if he has not already paid fees under clause (a).

Persons  
interested  
bound to  
furnish in-  
formation.

51. (1) Any person whose rights, interests or liabilities are required by this Act or any rule made thereunder to be entered in the annual papers shall be bound, on the requisition of any Revenue Officer, revenue inspector or patwari, to furnish within a reasonable time such information relating to his rights, interests or liabilities as may be necessary for the compilation of such papers.

(2) No prosecution for failing to furnish the information specified in sub-section (1) shall be instituted except by an order of the Deputy Commissioner.

Maintenance  
of boundary  
and survey  
marks.

52. (1) All persons in occupation of estates, villages, mahals, pattis, lands or fields are bound to maintain and keep in repair at their own cost the permanent boundary and survey marks erected thereon, and the Deputy Commissioner may at any time order such persons—

- (a) to erect proper boundary marks on such estates, villages, mahals, pattis, lands or fields; or
- (b) to repair and renew, in such form and with such material as he may prescribe, all boundary and survey marks erected thereon.

(2) The Deputy Commissioner may fix a reasonable time for obeying such order, and, if his order is not obeyed within such time, may cause such marks to be erected, repaired or renewed under his own orders, and may recover a sum not exceeding double the cost of such erection, repair or renewal from the persons against whom his order was made, in such proportion as he thinks fit.

Maintenance  
of boundary  
line in vil-  
lages adjoining  
Government  
forest.

53. (1) All proprietors and tenants of villages adjoining Government forest are bound to assist in maintaining the boundary demarcation between the village and the forest by annually clearing one-half of a line forty feet in width, the other half of which will be cleared by Government, and the Deputy Commissioner may order such proprietors and tenants to clear such line accordingly.

(2) If such order is not complied with within thirty days from the date of communication thereof, the Deputy Commissioner shall cause such half to be cleared, and may recover the expenditure incurred from the proprietors and tenants in such proportion as he thinks fit.

(3) The Commissioner may, for reasons to be recorded in writing, exempt the proprietors and tenants of any such village from the obligation imposed by this section.

*Explanation.*—In this section, “proprietor” includes a transferee of proprietary rights in possession and a thekadar with protected status.

54. (1) If any person wilfully destroys, damages or, without lawful authority, removes a survey or boundary mark lawfully erected, he may be ordered by the Deputy Commissioner to pay such penalty, not exceeding fifty rupees, for each mark so destroyed, damaged or removed, as may be necessary to defray the expense of restoring the same and of rewarding the person, if any, who gave the information of the destruction, damage or removal.

Cognizance of and penalty for offence of damaging survey and boundary marks.

(2) The imposition of a penalty under sub-section (1) shall not bar a prosecution under section 434 of the Indian Penal Code.<sup>1</sup>

55. (1) All disputes regarding boundaries between estates, villages, mahals or pattis shall be decided by the Deputy Commissioner after a local enquiry at which all persons interested shall have an opportunity of appearing and producing evidence.

Disputes regarding boundaries between estates, villages, mahals or pattis.

(2) The Deputy Commissioner shall give effect to his decision by placing the proprietors of the estates, villages, mahals or pattis in possession in accordance therewith, shall demarcate the boundary on the ground and shall pass such order as may appear equitable regarding the rights of any tenants or persons occupying the land in dispute.

(3) If a boundary has been so demarcated by the Deputy Commissioner, its correctness as such shall not be called in question by a Civil Court.

(4) Any person against whom an order is made under sub-section (1) or (2) may institute a suit to establish the right, title or interest he claims in the land in dispute and for its possession; but subject to the result of such suit, if any, the order shall be conclusive.

(5) Such suit, if the plaintiff is a proprietor who has been dispossessed, shall be instituted within six months from the date of his dispossession, and in the case of any other person, within the same period from the date of the communication of the order to him.

(6) If the estates, villages or mahals of which the boundary is in dispute are situated in different districts or divisions, the Commissioner or the Financial Commissioner, as the case may be, shall appoint a Deputy Commissioner or an Assistant Commissioner of the first class to decide the dispute.

## CHAPTER VI.

## SETTLEMENT.

Liability of  
all land to  
payment of  
land-revenue.

56. (1) All land, to whatever purpose applied and wherever situate, is liable to the payment of revenue to Government, except such land as has been wholly exempted from such liability by special grant of, or contract with, Government, or by the provisions of any enactment for the time being in force. Such revenue shall be called "land-revenue."

(2) Revenue may be assessed on land notwithstanding that such revenue, by reason of its having been assigned, released, compounded for or redeemed, is not payable to Government.

(3) No length of occupation of any land, nor any grant of land made by the proprietor, shall release such land from the liability to pay revenue.

Notification  
as to  
Settlement.

57. Whenever the Chief Commissioner thinks that a settlement should be made of any local area, he shall publish a notification to that effect, and every such local area shall be held to be under settlement from the date of such notification until the issue of a notification declaring such settlement operations to be closed :

Provided that, before publishing such notification of settlement, notice of the intention to do so together with proposals for the standard enhancement of rents, the percentage assets to be taken as revenue and the term for which the settlement is to be made shall be published for objections in such manner as the Chief Commissioner may prescribe.

Power to  
appoint  
Settlement  
Officers and  
Assistant  
Settlement  
Officers.

58. (1) The Chief Commissioner may appoint an officer, hereinafter called the Settlement Officer, to be in charge of the settlement of the local area, and as many Assistant Settlement Officers as he thinks fit.

(2) All Assistant Settlement Officers appointed in any local area shall be subordinate to the Settlement Officer.

Powers of  
Settlement  
Officer  
and Assistant  
Settlement  
Officer.

59. (1) The Chief Commissioner may invest any Settlement Officer or Assistant Settlement Officer with all or any of the powers of a Deputy Commissioner under this Act, to be exercised by him in such case or class of cases as the Chief Commissioner may direct.

(2) The Chief Commissioner may invest any Assistant Settlement Officer with all or any of the powers of a Settlement Officer under this Act or any enactment for the time being in force.

Power to  
transfer the  
duty of main-  
taining maps  
and records  
to Settlement  
Officer.

60. When a local area is under settlement, the duty of maintaining the maps and records may, under the orders of the Financial Commissioner, be transferred from the Deputy Commissioner to the Settlement Officer, who shall thereupon exercise all the powers conferred on the Deputy Commissioner by sections 43, 46, 47, sub-section (1), 52, 54 and 55.



61. The Chief Commissioner may appoint a Settlement Commissioner, and transfer to him—

(1) as regards any local area under settlement, all or any of the powers which the Commissioner would otherwise exercise under this Act or any enactment for the time being in force in matters connected with such settlement, and

(2) all or any of the powers of a Commissioner under sections 42 and 44.

62. The Chief Commissioner shall issue instructions for the guidance of the Settlement Officer.

63. (1) When any local area is under settlement, the Settlement Officer shall make lists of all lands in such area which appear to him to have no lawful owner, and shall thereupon issue a proclamation declaring his intention to demarcate such lands as the property of Government, and inviting any person having any claims to or over them to present, within three months from the date of such proclamation, a petition in writing setting forth such claims and the grounds therefor.

(2) Such proclamation shall be deemed to be an advertisement under the 1Waste Lands (Claims) Act, 1863, section 1, and the demarcation of such lands shall be deemed to be a disposition of them within the meaning of that Act, and the Settlement Officer shall exercise all the powers vested in the Collector by that Act ; and claims to or over the land comprised in such proclamation shall be dealt with, as nearly as may be, in the manner prescribed by that Act.

64. If a claim to the exercise or enjoyment of any right, not amounting to the right of exclusive possession, in, to or over any land comprised in such proclamation is established, either before the Settlement Officer or before the Court constituted under the 1Waste Lands (Claims) Act, 1863, section 7, the Settlement Officer may assign to the claimant as his property a definite portion of such land, or, with the sanction of the Chief Commissioner, may otherwise compensate the claimant, and such assignment or compensation shall be held to extinguish all claims on account of such exercise or enjoyment.

65. For the purpose of excluding from all or any of the operations of the settlement any town or other land from which the owner can derive no profit, the Settlement Officer may mark off the site and determine the limits of such town or land:

Provided that no land in respect of which land-revenue is payable at the date of the notification issued under section 57 shall, under this section, be exempted from assessment without the sanction of the Chief Commissioner.

Settlement Officer to ascertain and record proprietors.

66. (1) The Settlement Officer shall ascertain and record the persons who are in possession as proprietors of the land comprised in each estate or mahal.

(2) No record made under sub-section (1) shall debar any person from establishing his right to such land in a Civil Court.

Settlement Officer may declare certain persons to be malik-makbuzas.

67. The Settlement Officer may declare to be a malik-makbuza any person who has acquired proprietary right over a definite area of a mahal, and who is not entitled to a share in the proprietary profits of the remainder of such mahal.

Determination and record of sir-land.

68. (1) The Settlement Officer shall ascertain and determine the extent of all land which is held as sir-land and shall record the same as sir-land.

(2) The Settlement Officer may, subject to rules made under section 227, record as sir-land any land received in exchange for sir-land otherwise than in accordance with the Explanation to section 2 (17).

(3) The Settlement Officer shall record as sir-land such khudkasht land as has been continuously cultivated by a proprietor for a period of not less than six consecutive years :

Provided that—

(i) no land shall be recorded as sir-land under sub-sections (2) and (3) if the total area of sir-land within the mahal already exceeds, or would thus exceed, one-quarter of the total occupied area of the mahal;

(ii) the Settlement Officer may, with the previous sanction of the Commissioner, exempt any mahal or part thereof from this limitation.

(4) If any land is to be excluded from the record of sir-land under the provisions of sub-sections (2) and (3), the proprietor shall have the right to choose the particular land which is to be excluded.

(5) Any person aggrieved by an order passed or an entry made under sub-section (1), recording or omitting to record any land as sir-land, may institute a suit in the Civil Court, at any time after the order is passed or the entry is made and within one year from the date on which the assessment is offered to the proprietor, to have such order or entry cancelled or amended and, subject to the result of such suit, if any, the order or entry shall be conclusive.

(6) An order or entry recording or failing to record any land as sir-land under sub-section (2) or (3) shall, subject to any order passed on appeal, revision or review, be conclusive.

(7) The Settlement Officer shall, at the request of any proprietor, furnish him free of cost, with a list of all the lands which have been recorded as sir-lands under this section, and which are situated within the mahal or patti owned wholly or partly by such proprietor.

*Explanation I.*—In this section, “proprietor” includes a transferee of proprietary rights and a thekadar with protected status, but not a malik-makbuza.

*Explanation II.*—Land allowed to lie fallow according to agricultural practice shall be deemed to be cultivated.

69. The Settlement Officer shall ascertain and determine the extent of all land held as khudkasht and shall record the same as such.

Determina-  
tion and  
record of  
khudkasht  
land.

70. (1) The Settlement Officer shall ascertain and record for each mahal—

Settlement  
Officer to  
ascertain  
status and  
rents of  
tenants.

(a) the status of persons occupying lands therein as tenants ;

(b) the area of such lands ;

(c) conditions on which they are held ; and

(d) the rents fixed by him under the<sup>1</sup> Central Provinces Tenancy Act, 1898, or, if no such rents are fixed by him, the existing rents, if any, payable in respect of such lands.

f 1898.

(2) A Settlement Officer shall, at the request of any person occupying land therein as a tenant, furnish him, free of cost, with a list of all the lands held by him, the conditions on which they are held and the rents payable.

71. The Settlement Officer shall, in the case of every inhabited village ascertain and determine the area to be reserved for the residence of the inhabitants or for purposes ancillary thereto, and such area shall be deemed to be the abadi of such village.

Settlement  
Officer to  
determine  
the abadi  
of a village.

72. If a dispute arises regarding any matter mentioned in section 66, 67, 68, sub-section (1), 69, 70, clauses (a), (b) and (c) or 71, the Settlement Officer shall decide it summarily after making such enquiry as he thinks fit and shall record a proceeding stating the nature of such dispute, his decision thereon, the grounds of such decision and such other particulars as he thinks fit.

Procedure in  
cases under  
section 66,  
67, 68, 69, 70  
or 71.

73. (1) The Settlement Officer shall enquire into the case of any estate, mahal or land released, conditionally or for a term, from the payment of the whole or part of the land revenue, and shall fix a kamil-jama upon such estate, mahal or land.

Enquiry  
into claims  
to hold free  
of land-  
revenue  
as against  
Government.

<sup>1</sup> *Supra*, p. 131.

(2) If in any case it appears to him that—

(a) the conditions of any grant have been transgressed, he shall report the case to the Commissioner who shall pass such orders as he thinks fit; or

(b) the term has expired, he shall assess the estate, mahal or land to land-revenue in accordance with the conditions of the grant.

Proof of title to hold free of land-revenue as against Government.

74. (1) Any person claiming to hold wholly or partially free of land-revenue as against Government any estate, mahal or land shall be bound to prove his title to the satisfaction of the Settlement Officer.

(2) If he so proves his title, the case shall be reported for the orders of the Financial Commissioner.

Enquiry into claims to hold any estate, mahal or land on conditions which require payment of the land-revenue by other persons.

75. (1) If the proprietor of any estate, mahal or land claims to hold it on conditions which require that the whole or any part of the land-revenue thereof shall be paid by any other person, whether under an agreement entered into before the fourth day of November, 1881, or under any order recorded at settlement or under a decree of a Civil Court, the Settlement Officer shall enquire into such claim and, notwithstanding any such agreement, order or decree, may either disallow the claim or may determine the period for, and the conditions on which such estate, mahal or land shall be so held.

(2) No decision under sub-section (1) shall exempt any such estate, mahal or land from liability to the payment of land-revenue, if such estate or mahal or the mahal in which such land is included is sold for arrears of land-revenue.

(3) If any question arises in a Civil Court as to the amount of land-revenue payable for the conditions on, or the period for, which such estate, mahal or land may be held free of land-revenue, the Court shall, on application made in this behalf, stay the proceedings and refer the question for the orders of the Settlement Officer, and shall make a decision in accordance with such orders.

Settlement Officer to decide what village-cesses are leviable and the persons entitled to levy or receive them.

76. (1) Subject to the orders of the Financial Commissioner, the Settlement Officer shall determine and record—

(a) the village-cesses, if any, leviable in accordance with village custom, and the rates and manner of levy thereof;

(b) the person or class of persons entitled to levy or receive them, and the services, if any, which they are liable to render in return therefor; and

(c) the persons or classes of persons from whom they are leviable.

(2) In any case in which the cess is leviable otherwise than in money, the Financial Commissioner may commute it or declare it to be commutable to a money payment at such rate as he may direct.

77. (1) In estates, mahals or pattis in which there are more proprietors than one the Settlement Officer shall record the arrangement agreed to by them—

- (a) for the distribution of the profits derived from sources common to the proprietary body ;
- (b) as to the nature and apportionment of the village expenses ; and
- (c) if an estate, mahal or patti is held in joint ownership, as to the manner in which the co-sharers shall contribute to the payment of the sums payable under the settlement or sub-settlement of such estate or mahal or apportioned to such patti by the Settlement Officer.

Settlement Officer to record arrangements and decide disputes among shareholders regarding management of estate, mahal or patti.

(2) If no arrangement is agreed to, the Settlement Officer shall decide all disputes concerning any of the matters aforesaid in accordance with the existing custom, if any, and shall frame the record accordingly.

78. The Settlement Officer shall ascertain and record the custom in each estate, village or mahal in regard to—

- (a) the rights of persons resident in the estate or village or holding lands comprised in the mahal, in the common land of the mahal and its produce, and in the village site ;
- (b) rights to irrigation, rights-of-way and other easements ; and
- (c) any other rights and customs which the Financial Commissioner may direct to be recorded :

Settlement Officer to ascertain and record customs in estates, villages or mahals.

Provided that, if the persons interested desire that any existing custom shall be modified, the Settlement Officer may record the fact, and the custom so modified shall be thenceforward deemed to be the existing custom.

79. The Settlement Officer shall prepare a village administration paper embodying the cases recorded, agreements made, decisions given and customs recorded, under sections 76, 77 and 78, and any other matter connected with the administration of the estate, village or mahal which the Financial Commissioner may require to be included.

Village administration paper.

80. (1) Any person aggrieved by any order or entry under section 67, 69, 70, clauses (a), (b) and (c), 71, 76, 77, 78 or 79 made after this Act comes into force may institute a suit in the Civil Court, within one year from the date on which the assessment is offered to the proprietor, to have such order or entry cancelled or amended, and subject to the result of such suit, if any, the order or entry shall be conclusive :

Effect of entries under sections 67, 69, 70 (a), (b) and (c), 71, 76, 77, 78 or 79.

Provided that if any such suit is instituted for the cancellation or amendment of an entry, Government, if it so desires, and all persons interested in the entry, shall be made parties to the suit.

(2) Nothing in sub-section (1) shall apply to a person whose right was not expressly considered and decided by the Settlement Officer.

(3) Entries in the record-of-rights or village administration paper, other than those referred to in sub-section (1), shall be presumed to be correct until the contrary is shown.

Separate sum to be assessed on every estate, mahal or malik-makbuza holding.

81. On every estate, mahal or malik-makbuza holding a definite and separate sum shall be assessed as land-revenue; but the sum so assessed may be reduced in such manner and to such extent as the Chief Commissioner thinks fit, for any period not exceeding fifteen years from the date on which the assessment takes effect.

Assessment to whom to be offered.

82. (1) The assessment of every estate, mahal or plot of land separately assessed to land-revenue in a mahal shall be offered—

- (a) in the case of an estate, to the proprietor;
- (b) in the case of a mahal, to the proprietor or, if there are two or more proprietors, to the lambardars, if for special reasons the Settlement Officer so decides;
- (c) in the case of a plot of land separately assessed to land-revenue in a mahal, to the malik-makbuza.

(2) If any proprietor to whom an assessment would otherwise have been offered—

- (a) has transferred possession of his estate, mahal or share to a mortgagee, the assessment may be offered to such mortgagee; or
- (b) is a lunatic, minor or other person incapable of making a contract, the assessment shall be offered to his guardian on his behalf.

(3) If superior and inferior proprietary rights exist in the same estate or mahal, the Settlement Officer shall, unless otherwise directed by the Commissioner, offer the assessment to the superior proprietor.

Settlement Officer to determine allotment of profits between superior and inferior proprietors. Sub-settlement to be made with inferior proprietors when settlement is made with superior.

83. (1) If superior and inferior proprietary rights exist in the same estate or mahal, the Settlement Officer shall determine the manner and proportion in which the proprietary profits of the estate or mahal shall be allotted between the superior and inferior proprietors.

(2) If the settlement is made with the superior proprietors, the Settlement Officer shall make on their behalf a sub-settlement with the inferior proprietors, by which they shall be bound to pay to the superior proprietors an annual sum equal to the land-revenue with which the estate or mahal is assessed and to the profits to which such superior proprietors are entitled under sub-section (1).

Power to give directions as to payment of certain profits of superior proprietors.

(3) If the settlement is made with the inferior proprietors, the Settlement Officer may direct that the profits to which the superior proprietors are entitled under sub-section (1) shall be paid by the inferior proprietors direct to such superior proprietors, or that such profits shall be collected as if they were land-revenue, and shall be paid to the superior proprietors from the Government treasury.

84. (1) The Settlement Officer shall submit his proposals for the fixation of rents and the assessment of land-revenue for the orders of the Financial Commissioner. Fixation of rents and assessment of revenue.

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(2) The rent to be fixed under the <sup>1</sup>Central Provinces Tenancy Act 1898, shall be fixed at a time and place to be published by the Settlement Officer who shall consider any objections which may be made to him.

(3) On the receipt of, and subject to, the orders of the Financial Commissioner on such proposals, the Settlement Officer shall declare the assessment of each estate or mahal and of any separately assessed plots of land included therein to the persons with whom the settlement is to be made and, in the case of such separately assessed plots, shall allow the proprietor of the estate or mahal to deduct from the land-revenue payable through him a drawback not exceeding twenty per cent. thereon to compensate him for his responsibility in respect of such land-revenue. Declaration of assessment.

(4) Such declaration shall be made at a time and place to be published by the Settlement Officer.

85. (1) No settlement shall be final until it has been confirmed by the Chief Commissioner. Confirmation and revision of assessment.

(2) Any assessment may be revised, if the Chief Commissioner so directs, at any time before the settlement is confirmed, and in such case the revised assessment shall be declared and the provisions of sections 82, 83 and 86 to 97 shall apply thereto :

Provided that no assessment shall be revised unless notice has been given to the persons concerned and their objections, if any, have been considered.

86. (1) The persons to whom an assessment is offered may accept or refuse the same. Option to accept or refuse assessment.

(2) If they accept it, such acceptance shall be in writing, in such form as the Financial Commissioner may, from time to time, prescribe in this behalf, and shall be delivered to the Settlement Officer. Mode of acceptance.

87. Any proprietor who, within thirty days from the date of the offer of the assessment, has not executed and delivered such acceptance, or has not informed the Settlement Officer that he refuses the proposed assessment, shall, if the Settlement Officer by an order in writing so directs, be deemed to have accepted such assessment. Proprietor not accepting in manner prescribed may be deemed to have accepted.

88. If the assessment of an estate, mahal or land has been accepted under this Act, the proprietors shall be bound to pay the land-revenue assessed thereon, together with, in the case of an estate or mahal, the land-revenue assessed on any separately assessed plots of land included therein, from such Effect of acceptance of assessment.

date and for such term as the Chief Commissioner may appoint in this behalf, or, if at the expiry of such term no new assessment has been made and is ready to take effect, until a new assessment has been made and is ready to take effect :

Provided that—

Proprietors may object to continuance of assessment beyond term of settlement.

(i) if all the proprietors, six months before the expiry of the term fixed under this section, apply in writing to the Deputy Commissioner stating that they are unwilling that the assessment should continue in force beyond the expiry of such term, the assessment shall, on the expiry of such term, cease to be in force ;

Assessment may be revised on appropriation of land to different purposes.

(ii) if in any mahal any land has been appropriated to any purpose other than that to which it was appropriated when the settlement was made, the assessment may be revised with the sanction of the Chief Commissioner and the land-revenue reassessed in accordance with the altered value of such land.

Procedure when assessment is refused.

89. If there is only one class of proprietors in an estate or mahal, and all refuse to accept under section 86 the assessment offered, the Settlement Officer may, with the previous sanction of the Financial Commissioner, exclude them from settlement for a period not exceeding the term of settlement and, in case of such exclusion, the Deputy Commissioner may either let the estate or mahal in farm or take it under direct management.

Procedure when only some proprietors refuse assessment.

90. (1) If some of the proprietors consent and some refuse to accept the assessment offered, the Settlement Officer may, with the previous sanction of the Financial Commissioner, if the interest of the proprietors refusing the assessment in the lands comprised therein consists entirely of lands held by them separately from the other proprietors, exclude such proprietors from settlement for a period not exceeding the period of settlement and, in case of such exclusion, the Deputy Commissioner may either let their lands in farm or take such lands under direct management.

(2) In other cases, the assessment of the entire estate or mahal shall be offered to the proprietors who accepted the assessment, and if they refuse it the estate or mahal shall be dealt with under section 89.

(3) If the proprietors who refuse the assessment are excluded under sub-section (1), the lands of the proprietors who accepted it shall be deemed to be a separate estate or mahal and shall be assessed as such, and such assessment shall be offered to the proprietors who accepted the assessment when originally offered, and, if the lands of the proprietors who refused the assessment are let in farm under sub-section (2), such farm shall be offered in the first instance to the proprietors who accepted the assessment.



91. If, in an estate or mahal in which there are both superior and inferior proprietors, all the proprietors of the class with which the Settlement Officer proposes to make the settlement refuse to accept the assessment offered, the assessment shall be offered to the proprietors of the other class; and, if all such proprietors refuse the assessment, the Settlement Officer shall proceed under section 89, or, if any of the proprietors of the class with which the Settlement Officer proposes to make the settlement refuse the assessment, he may either proceed as if all had refused it or may deal with the estate or mahal under section 90.

Procedure on refusal of assessment in estate or mahal in which there are superior and inferior proprietors.

92. If all or any of the inferior proprietors refuse any assessment offered under section 82 or the sub-settlement made under section 83, the Settlement Officer may exclude them all from the sub-settlement, and assign the proprietary management and profits of the estate or mahal to the superior proprietor for any term not exceeding the term of settlement.

Procedure on refusal of assessment by inferior proprietors.

93. Any proprietor who has been excluded from a settlement or sub-settlement under sections 89 to 92 shall be entitled during the period of such exclusion—

Allowance to excluded proprietors.

(a) if he has no sir-land, to receive an annual allowance from Government or, in the case of an inferior proprietor, from the superior proprietor, the amount of which shall be fixed by the Financial Commissioner, but which shall not be less than five, or more than fifteen, per cent. on the land-revenue assessed upon the estate, mahal or share;

(b) if he has such sir-land, to hold it at a sum to be fixed by the Settlement Officer, and if such sum is less than fifteen per cent. on the land-revenue of the estate, mahal or share, to receive such annual allowance as, when added to the sum aforesaid, shall not be less than five, or more than fifteen, per cent. of such land-revenue.

94. If any proprietor holding sir-land under section 93, clause (b), fails to pay the rent fixed thereon, the arrears thereof may be recovered as if they were arrears of land-revenue, and he shall cease to be entitled to occupy such sir-land and may be ejected therefrom by order of the Deputy Commissioner.

Ejection for non-payment of rent.

95. If any malik-makbuza refuses to accept the assessment offered under section 82, sub-section (1), clause (c), the Settlement Officer may, with the previous sanction of the Financial Commissioner, exclude him from the possession of his holding for a period not exceeding the term of settlement; and the Deputy Commissioner may either let the holding in farm, or take it under direct management.

Exclusion of malik-makbuza for non-acceptance of assessment.

Allowance to  
excluded  
malik-mak-  
buza.

96. Any malik-makbuza excluded from the possession of his holding under section 95 shall be entitled during the period of such exclusion to an allowance of not less than five per cent. or more than fifteen per cent. of the land-revenue assessed on his holding.

Settlement  
Officer may  
apportion  
sums payable  
among pattis.

97. If a mahal has been divided into two or more pattis, the Settlement Officer shall apportion among such pattis the sums payable under the settlement or sub-settlement, but such apportionment shall not affect the joint and several liability of the pattis for the whole land-revenue of the mahal.

Proceedings  
regarding  
land, the  
property of  
Government.

98. In respect of lands declared to be the property of Government the Settlement Officer shall, instead of proceeding as hereinbefore provided, conduct such operations and prepare such record as the Financial Commissioner may direct.

## CHAPTER VII.

### PREVIOUS SETTLEMENTS.

Previous  
settlements  
deemed to  
have been  
made under  
this Act.

99. Settlements made before this Act comes into force shall be deemed, so far as may be, to have been made under this Act, and the provisions of this Act in regard to proceedings taken and records prepared by Settlement Officers in the making of settlements under this Act shall apply in like manner to proceedings taken and records prepared before this Act comes into force.

Effect of  
awards of  
proprietary  
rights at  
such settle-  
ments.

100. (1) If a Settlement Officer or Settlement Court has, at any settlement made before this Act comes into force, made an award of proprietary rights in any land, all claims, which after consideration by such officer or Court may have been expressly decided by him or it to be invalid, or inferior, to the claims of the persons in whose favour the award was made, shall be barred both as against Government and as against the persons last mentioned ; and no suit shall lie for the enforcement of such claims in any Civil Court.

(2) The award at any such settlement of proprietary rights in land to a widow shall be deemed to confer on her only those rights which, in accordance with the personal law to which she is subject, she would enjoy in land inherited by her from her husband.

When suits  
for proprie-  
tary rights  
will lie in  
Civil Court.

101. Any person whose claim to proprietary rights in any land was not expressly decided by such officer or Court, may sue in a Civil Court to establish such claim ; and, if he can prove that, when proprietary rights in such land were awarded by such officer or Court to other persons, he was entitled to interests therein of the same nature as those upon consideration of which the award was made, the Civil Court may declare him entitled to a proprietary right of such nature and extent in the land as it may deem just.

## CHAPTER VIII.

## REVISION OF ASSESSMENT AND OTHER PROCEEDINGS DURING PERIOD OF SETTLEMENT.

102. The Chief Commissioner may, during the currency of a settlement, invest any officer with the powers conferred on a Settlement Officer under Chapter VI, within such local area, with such restrictions, and for such period, as he thinks fit, but not, save as provided in section 88, proviso (ii), so as to enable him to enhance any land-revenue payable.

Purposes for which officer may be invested with Settlement Officer's powers.

103. The Deputy Commissioner shall enquire annually, or at such intervals as may be prescribed by the Financial Commissioner, into the case of all estates, mahals or lands released conditionally or for a term from the payment of the whole or part of the land-revenue, and, if in any case it appears to him that—

Annual enquiry regarding estates, mahals or lands held free from revenue.

- (a) the conditions of any grant have been transgressed, he shall report the case to the Commissioner who shall pass such orders as he thinks fit; or
- (b) the term has expired, he shall assess the estate, mahal or land to land-revenue in accordance with the conditions of the grant, and shall report his proceedings to the Commissioner for confirmation.

104. If the culturable area of a mahal or of a plot separately assessed to land-revenue in a mahal is diminished by fluvial action or otherwise, or the soil is permanently deteriorated without the fault of the proprietor, the Deputy Commissioner may, with the sanction of the Financial Commissioner, revise the assessment and, if the mahal is held by an inferior proprietor, may make a proportionate reduction in the amount payable by him.

Revision of assessment in case of diminution or deterioration.

105. When settlement operations are closed under section 57, all applications and proceedings then pending before the Settlement Officer shall be transferred to the Deputy Commissioner, who shall have the powers of a Settlement Officer for their disposal.

Transfer of pending proceedings to Deputy Commissioner on close of settlement operations. Purposes for which, when settlement is not in progress, Deputy Commissioner shall exercise Settlement Officer's powers.

106. The Deputy Commissioner shall, when a settlement is not in progress, exercise the powers conferred by this Act on a Settlement Officer for the following purposes:—

- (a) assessing land-revenue on lands which are liable to assessment, but have not been assessed;
- (b) settling estates, mahals or lands from which the proprietors were excluded at settlement and to which they have been, or are about to be, re-admitted;
- (c) declaring land to be sir-land under section 68, sub-sections (2) and (3);

- (d) ascertaining and determining the area to be reserved as abadi under section 71 ;
- (e) dealing with claims to hold estates, mahals or lands wholly or partially free from revenue under section 75 ;
- (f) determining and recording all questions in regard to village-cesses under section 76 ;
- (g) recording arrangements and deciding disputes among shareholders regarding management of estates, mahals or pattis under section 77 ;
- (h) ascertaining, recording and modifying customs under section 78 ;
- (i) settling estates, mahals or lands in respect of which an application has been made under section 88, proviso (i).
- (j) apportioning sums payable under a settlement or sub-settlement in the case of pattis held in severalty under section 97.

## CHAPTER IX.

### PROTECTION OF THEKADARS AND VILLAGE HEADMEN.

Power to en-  
quire into  
claims of  
thekadars.

107. (1) The Deputy Commissioner may enquire into the claim of any person holding from a proprietor a village or any part of a village as thekadar and may, notwithstanding any contract to the contrary, and with the previous sanction of the Financial Commissioner, declare such thekadar to be protected or confer on him the rights of an occupancy tenant in respect of the whole or part of his sir-land or khudkasht and determine the rent payable by him :

Provided that no thekadar shall be declared to be protected or be granted the rights of an occupancy tenant under this section unless he or the persons from whom the theka has devolved upon him by inheritance or survivorship has or have been in lawful possession of the village or part of the village for a period of not less than twenty consecutive years, or unless it is proved that such thekadar or persons has or have established or substantially improved the village at his or their own cost.

(2) If a thekadar has been declared to be protected, or has been granted the rights of an occupancy tenant, any member of his family who is found to be cultivating land in the village by virtue of participation in the privileges of the theka may, by order of the Deputy Commissioner and with the previous sanction of the Financial Commissioner, be given the rights of an occupancy tenant in such land, subject to the payment of such rent as the Deputy Commissioner may determine.

(3) The occupancy rights specified in sub-sections (1) and (2) shall take effect from the date of expiry of the theka.

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116.

(1) Notwithstanding anything contained in this section, a thekadar holding a village or part thereof from a proprietor who is deemed to be a member of an aboriginal tribe under the <sup>1</sup> Central Provinces Land Alienation Act, 1916, shall not be declared to be protected or be granted the rights of an occupancy tenant.

*Explanation I.*—Sir-land in which the rights of an occupancy tenant are thus conferred will not finally lose its character as such, but the sir right will remain in abeyance.

*Explanation II.*—In this section and in section 110 “thekadar” includes a gaontia or farmer of proprietary rights.

108. (1) If a thekadar has, under section 107, sub-section (1), been declared to be protected, the Deputy Commissioner shall enquire into and record the conditions on which the village or part thereof is held, including the theka-jama, miscellaneous dues and cesses, if any, to be paid, the period to elapse before enhancement, the rights over waste land and forest produce, and such other matters as may be prescribed by rules made under section 227. Enquiry into and record of conditions of protected thekadar.

(2) If any dispute arises regarding any matter specified in sub-section (1), the Deputy Commissioner shall decide it after hearing the parties and making such enquiry as he thinks necessary, and shall record proceedings setting out the nature of the dispute, his decision thereon, the grounds of such decision and such other particulars as he thinks fit. Decision of disputes.

(3) The Deputy Commissioner shall draw up a written lease and kabuliyat embodying the result of his enquiries under sub-sections (1) and (2), and shall submit them for the orders of the Financial Commissioner. Execution of lease and kabuliyat.

(4) The terms of such lease and kabuliyat shall be binding on the parties and shall not be called in question in a Civil Court so long as the thekadar remains protected.

(5) If the proprietor refuses to execute the lease, it shall be executed on his behalf by the Deputy Commissioner.

109. (1) The incidents of the tenure of a protected thekadar shall be as follows :— Incidents of protected status.

(a) the tenure shall be—

- (i) impartible ;
- (ii) inalienable; and
- (iii) exempt from liability to sale or foreclosure in execution of any decree or order of a Civil Court :

Provided that—

- (i) nothing herein contained shall prevent a protected thekadar, or any member or members of his family who would be entitled to

share in the theka or to be maintained out of its income, from making any arrangement, binding on themselves only, for the joint or divided management and enjoyment of the village or part thereof;

- (ii) the right of a protected thekadar may, subject to the sanction of the Deputy Commissioner, be given in lease for a period not exceeding ten years in favour of a society registered under the <sup>1</sup> Co-operative Societies Act, 1912;

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(b) the succession shall be regulated by the personal law of the deceased thekadar, subject to the following conditions, namely :—

- (i) only one person at a time shall succeed ;
- (ii) when there are several persons in the same degree of relationship to the deceased thekadar, those senior in descent from the common ancestor shall be preferred to those junior, and where there are several persons of equal seniority of descent, the eldest shall be preferred to the others :

Provided that, of such persons bearing the same degree of relationship to the deceased thekadar, one who was joint in estate with him at the time of his death shall be preferred to one who was not so joint ;

- (iii) if there are several widows, the senior in date of marriage shall be preferred to the others ;
- (iv) the person entitled to succeed may resign his rights and thereupon the person next in order of succession to the deceased thekadar shall succeed ;

(c) a protected thekadar, whether holding under a written lease or under a verbal agreement, shall be entitled on its expiry to a renewal of his lease or agreement and, on the occurrence of any such renewal, the provisions of section 108 shall apply ;

(d) all miscellaneous dues and cesses, unless specially authorized by the Financial Commissioner, shall be included in the theka-jama.

(2) Notwithstanding anything contained in the <sup>2</sup> Indian Registration Act, 1908, no officer empowered to register documents shall admit to registration any document which purports to transfer the rights or any portion of the rights of a protected thekadar as such save as provided in sub-section (1), clause (a), proviso (ii).

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(3) If a protected thekadar transfers any portion of his rights, save as provided in sub-section (1), clause (a), proviso (ii), and the transferee obtains possession in pursuance of the transfer, the Deputy Commissioner may, of his

<sup>1</sup> General Acts, Volume VII.

<sup>2</sup> General Acts, Volume VI.

own motion or on the application of any of the persons hereinafter mentioned, place in possession of the village or part of the villages concerned the transferring thekadar, or any co-sharer, or, failing such persons, the proprietor, subject to the condition that the person so placed in possession shall accept the liabilities of the transferring thekadar for arrears of the theka-jama :

Provided that, as among several co-sharers desirous of being placed in possession, the Deputy Commissioner shall decide in favour of the person who would be entitled to succeed the thekadar under sub-section (1) if he were dead.

*Explanation I.*—For the purposes of sub-section (3) a surrender of his rights as such by a protected thekadar shall be regarded as a transfer in contravention of sub-section (1).

*Explanation II.*—In this section and in the third proviso to section (iii) the expression “co-sharer” shall mean any person joint with the protected thekadar and entitled to a share in the profits of the lease.

110. If, in any proceedings before a Civil Court for the ejectment of a thekadar, it appears that the thekadar has filed an application or appeal before a Revenue Officer to obtain a declaration that he is entitled either to protection or to a grant of the rights of an occupancy tenant, or if he files such an application before the Civil Court, the said Court shall stay the proceedings until the application or appeal has been disposed of under this Act, and shall forward such application, if filed before itself, to the Deputy Commissioner for disposal.

111. If any protected thekadar is shown—

Forfeiture of protection.

- (a) to have contravened any of the incidents of his tenure ; or
- (b) to have violated any of the terms of the lease or agreement under which he holds ; or
- (c) to have continuously neglected or grossly mismanaged the village ;  
or
- (d) to have diverted any culturable land to non-agricultural purposes ;  
or
- (e) to have failed without due cause to pay the theka-jama ; or
- (f) to have refused to execute a kabuliyat drawn up under section 108, sub-section (3), or section 109, sub-section (1), clause (c) ;

the Deputy Commissioner may, with the previous sanction of the Financial Commissioner, declare such thekadar to have forfeited the protection previously conferred on him, and such thekadar shall, from the date of such declaration, cease to be protected :

Provided that—

(i) the Deputy Commissioner may, with the previous sanction of the Financial Commissioner, at the time of such declaration of forfeiture reserve to the thekadar whose protection is withdrawn the rights of an occupancy tenant in the whole or part of his sir-land or khudkasht and may determine the rent payable thereon ;

*Explanation.*—Sir-land in which the rights of an occupancy tenant are thus conferred will not finally lose its character as such, but the sir right will remain in abeyance ;

(ii) the Deputy Commissioner may, with the previous sanction of the Financial Commissioner, at the time of making such declaration, invest any co-sharer with all the rights of the thekadar in the village or part of the village concerned, subject to his acceptance of the liabilities of the thekadar for arrears of theka-jama ;

(iii) as among several co-sharers desirous of so being invested, the Deputy Commissioner shall, in the absence of any local or family custom to the contrary, decide in favour of the co-sharer who would be entitled to succeed under section 109, if the thekadar were dead.

Power to transfer theka.

112. Subject to rules made under section 227, the Deputy Commissioner may, on the application of any member of the family of a protected thekadar who is entitled to share in the theka or to be maintained out of its income, transfer the theka to any such member of the family, who shall thereupon become the protected thekadar :

Provided that such transfer shall not deprive the person removed of his interest in the theka.

Reinstatement of protected thekadar illegally ejected.

113. If a protected thekadar is illegally ejected by the proprietor, he may apply within twelve months from the date of his ejection to the Deputy Commissioner for reinstatement, and the Deputy Commissioner may, after such enquiry as appears necessary, replace him in possession :

Provided that no order passed under this section shall prejudice the right of the thekadar whose application for reinstatement is rejected to recover possession by means of a civil suit.

Reinstatement and protection of ejected thekadar entitled to protection or to occupancy rights.

114. Any person entitled to apply for either protection or a grant of the rights of an occupancy tenant under section 107 who is ejected by the proprietor from, or has lost possession otherwise than by transfer or voluntary surrender of, the village, part of the village, or land in respect of which he is so entitled, may, at any time before the expiration of two years from the date of such ejection or loss of possession, apply to the Deputy Commissioner, who may, with the previous sanction of the Financial Commissioner, replace him in possession and declare him to be protected, or to have the rights of an occupancy tenant, as the case may be, under section 107.



115. (1) In any area in which the Chief Commissioner has by notification, declared that protection for village headmen or certain classes of village headmen is desirable in the interests of the local tenantry or in order to maintain or improve the standard of cultivation, the Deputy Commissioner shall enquire into the suitability of every such village headman for the post and may, notwithstanding any agreement to the contrary, declare him to be protected.

Protection of village headman in backward tracts.

(2) While a notification under sub-section (1) is in force, no person shall be declared to be protected thekadar, or be granted the rights of an occupancy tenant under section 107 in any village in such area.

*Explanation.*—In this section and in section 118 “headman” shall include a thekadar, farmer of proprietary rights, gaoutia or village officer responsible, according to local custom, for the management of the village.

116. (1) If a headman has been declared to be protected under section 115, the Deputy Commissioner shall draw up a lease and a kabuliyat setting out the conditions on which the village shall be held, and in preparing such lease and kabuliyat, shall follow the provisions of section 108, sub-sections (2), (3) and (4).

Execution of lease and kabuliyat in case of protected headman.

(2) The terms of such lease and kabuliyat shall be binding on the parties and shall not be called in question in a Civil Court.

(3) If the proprietor refuses to execute such lease, it shall be executed on his behalf by the Deputy Commissioner.

117. (1) The incidents of the tenure of a protected headman shall be as follows :—

Incidents of tenure of protected headman.

(a) the tenure shall be—

(i) impartible ;

(ii) inalienable ;

(iii) exempt from liability to sale or foreclosure in execution of any order or decree of a Civil Court ; and

(iv) shall terminate on the death of the headman ;

(b) all miscellaneous dues and cesses, unless specially authorised by the Financial Commissioner, shall be included in the theka-jama ;

(c) a protected headman shall be entitled, on the expiry of the lease drawn up under section 116, to a renewal of the lease, and on the occurrence of any such renewal the provisions of section 108 shall apply.

1908. (2) Notwithstanding anything contained in the Indian Registration Act, 1908, no officer empowered to register documents shall admit to registration any document which purports to transfer the rights or any portion of the rights of a protected headman as such.

Stay of proceedings for ejectment of protected headman.

118. While a notification under section 115, sub-section (1), is in force, any proceeding before a Civil Court for the ejectment of a village headman in such area shall be stayed until the Deputy Commissioner has decided whether such headman shall be declared to be protected, and, if such declaration is made, the proceedings shall abate.

Replacement of a protected headman.

119. If a protected headman is ejected by the proprietor, the Deputy Commissioner may, after such enquiry as appears necessary, replace him in possession.

Forfeiture of protection of a headman.

120. If any protected headman is proved—

- (a) to have contravened any of the incidents of his tenure, or to have violated any of the terms of any lease executed under section 116 ; or
- (b) to have diverted the culturable land of the village to non-agricultural purposes ; or
- (c) to have failed without due cause to pay the theka-jama ; or
- (d) to have refused to sign the kabuliyat drawn up by the Deputy Commissioner under section 116 ; or
- (e) to have failed without good cause to maintain the prosperity of the village ; or
- (f) to have managed or to be managing the village in such manner that his retention as headman is, in the opinion of the Deputy Commissioner, no longer desirable ;

the Deputy Commissioner may, with the previous sanction of the Financial Commissioner, declare such headman to have forfeited the protection previously conferred on him and may eject him from any land which he holds as headman :

Provided that the Deputy Commissioner may, with the like previous sanction, at the time of such ejectment, reserve to the headman the rights of an occupancy tenant in the whole or part of such land and may determine the rent payable by him.

*Explanation.*—Sir-land in which the rights of an occupancy tenant are thus conferred will not finally lose its character as such, but the sir right will remain in abeyance.

Appointment of a successor to a deceased or an ejected headman.

121. (1) If any protected headman dies or is declared to have forfeited the protection, the Deputy Commissioner may appoint a successor, and, in making such appointment, shall, subject to rules made under section 227, take into consideration the claims of members of the family of the former headman and the wishes of the proprietor.

(2) A successor so appointed shall be declared protected under section 115.

## CHAPTER X.

## COLLECTION OF LAND REVENUE.

122. (1) The land-revenue assessed on an estate, mahal or land, and any sum payable under a sub-settlement shall, notwithstanding any partition, be a first charge on the estate, mahal or land to which it relates, and on the rents or profits thereof. Revenue the first charge on estates, mahals or lands.

(2) Without the sanction of the Deputy Commissioner, the rents or profits of an estate, mahal or malik-makbuza holding or the produce of a survey-number shall not be applied in satisfaction of a decree or order of a Civil Court until all sums legally recoverable under the settlement or sub-settlement or otherwise under an assessment made under this Act have been paid.

(3) If the produce of any survey number has been sold, mortgaged or otherwise disposed of by private agreement, the Deputy Commissioner may prevent the removal of such produce until the land-revenue for the current year has been paid, whether the time fixed for the payment of the same under section 124 has arrived or not.

(4) Nothing in sub-section (3) shall prevent any person from reaping, gathering or storing such produce or doing any other act necessary for its preservation.

*Explanation.*—In this section “produce” means—

(a) crops and other products of the earth standing or ungathered on the holding ;

(b) crops and other products of the earth which have been grown on the holding and have been reaped or gathered and are deposited on the holding or on a threshing ground, or are stored by a raiyat of the land on which they have been grown, within the village in which the holding is situate or the raiyat resides.

123. All land-revenue payable under this Act shall be paid through the sadar-lambardar, lambardar or patel, as the case may be.

Land-revenue payable through sadar-lambardar, lambardar or patel.

124. (1) Notwithstanding anything contained in any record-of-rights, the Financial Commissioner may fix the number and amount of the instalments, and the time, place and manner of payment of any sum payable under a settlement or sub-settlement or otherwise under an assessment made under this Act.

Power of Financial Commissioner to regulate payment of sums payable under the Act.

(2) Unless the Financial Commissioner otherwise directs, all such payments shall be made on the dates, in the instalments, in the manner and at the places, which prevail when this Act comes into force.

"Arrear."  
"Defaulters."

125. If any sum payable under a settlement or sub-settlement or otherwise under an assessment made under this Act is not paid on or before the date on which it is payable under section 124, such sum shall be deemed to be an arrear, and all the persons with whom such settlement or sub-settlement assessment was made, their representatives and assigns, shall thereupon become jointly and severally liable for such arrear and shall be deemed to be defaulters within the meaning of this Act.

*Explanation.*—The term "assigns" in this section includes a mortgagee in possession and a thekadar.

Tahsildar's  
statement of  
account to be  
conclusive  
evidence of  
arrear.

126. A statement of account, authenticated by the signature of a tahsildar, shall, for the purposes of this Chapter, except where otherwise specially provided, be conclusive evidence of the existence of any arrear payable to Government, of its amount and of the person who in respect thereof is the defaulter.

Notice of  
demand.

127. A tahsildar or Naib-Tahsildar may, if he thinks fit, cause a notice of demand to be served on any defaulter before the issue of any process under section 128 for the recovery of an arrear.

Processes for  
recovery of  
arrear.

128. An arrear payable to Government may be recovered by any one or more of the following processes :—

- (a) by arrest and detention of the defaulter or his imprisonment in the civil jail ;
- (b) by attaching and selling his moveable property ;
- (c) by attaching the estate, mahal or land in respect of which the arrear has accrued, or the share or land of any co-sharer who has not paid the portion of the land-revenue which, as between him and the other co-sharers, is payable by him, and by taking such estate, mahal, share or land under direct management ;
- (d) by transferring the share or land of any co-sharer who has not paid such portion, to any other co-sharer or, if every co-sharer declines to accept such share or land, to any person having a mortgage or charge upon the same who consents to accept such share or land ;
- (e) by annulling the settlement of the estate, mahal or land in respect of which the arrear has accrued, and taking such estate, mahal or land under direct management or letting the same in farm ;
- (f) by selling such estate, mahal or land, or the share or land of any co-sharer who has not paid the portion of the land-revenue

which, as between him and the other co-sharers, is payable by him ;

- (g) by attaching and selling immoveable property belonging to the defaulter other than the land in respect of which the arrear has accrued :

Provided that—

- (i) The process specified in clause (a) shall not be issued against any female, minor, lunatic or any person exempted from personal attendance in a Civil Court ;
- (ii) the processes specified in clause (b) shall not permit the attachment and sale of the following articles, namely :—
  - (a) the necessary wearing apparel, cooking vessels, beds and bedding of the defaulter, his wife and children, and such personal ornaments as in accordance with religious usage cannot be parted with by any woman ;
  - (b) tools of artisans and, if the defaulter is an agriculturist, his implements of husbandry and such cattle and seed as may, in the opinion of the Revenue Officer, be necessary to enable him to earn his livelihood as such ; and
  - (c) articles set aside exclusively for the use of religious endowments ;
- (iii) the processes specified in clauses (d), (e), (f), and (g) shall not be enforced without the previous sanction of the Financial Commissioner ;
- (iv) no land shall be sold, and the settlement of no estate, mahal or land shall be annulled, on account of an arrear accruing in respect thereof while it is under the charge of the Court of Wards, or held under direct management or let in farm in accordance with any of the provisions of this Act.

129. The processes specified in section 128, clauses (a), (b) and (g), may be enforced either in the district in which the default has been made or in any other district.

Arrest and imprisonment for recovery of arrear.

130. (1) Every warrant for the arrest of a defaulter shall direct the officer named therein to bring such defaulter to the tahsil office, if he does not pay the arrear by a date fixed in the warrant.

Arrest and detention of defaulter.

(2) If, when the defaulter is brought to the tahsil office, the arrear is still unpaid, the Tahsildar may order him to be placed before the Deputy Commissioner, or may detain him at the said office for a period not exceeding ten days, unless within such period the arrear is paid, and may then, if the arrear is still unpaid, cause him to be taken before the Deputy Commissioner.

Imprisonment of defaulter in Civil Jail.

(3) If the arrear is still unpaid the Deputy Commissioner may issue an order to the officer in charge of the district civil jail, directing him to confine the defaulter therein for such period, not exceeding three months from the date of the order, as the Deputy Commissioner thinks fit, unless the arrear is paid within such period.

Procedure in attachments and sales of moveable and attachments of immoveable property.

131. (1) Attachments and sales of moveable property under this Chapter shall be made, as nearly as may be, according to the law for the time being in force for the attachment and sale of such property under the decree of a Civil Court.

(2) Attachments of immoveable property under section 128 shall be made as nearly as may be, according to the law for the time being in force for the attachment of such property under the decree of a Civil Court.

(3) When an attachment has been made, any private transfer or delivery of the property attached or of any interest therein shall be void as against claims enforceable under the attachment.

Enquiry into claim of a third person to property attached or proceeded against it.

132. (1) If any claim is set up by a third person to property attached or proceeded against under the provisions of this Chapter, the Deputy Commissioner shall enquire into the claim and may admit or reject it.

(2) The person against whom an order is made under sub-section (1) may institute a suit to establish the right which he claims to the property attached or proceeded against, but, subject to the result of such suit, if any, the order shall be conclusive.

Management of an estate, mahal, share or land attached under section 128 (c).

133. (1) If an attachment has been made under section 128, clause (c), the Deputy Commissioner shall issue a proclamation declaring the attachment to be in force, and shall take the attached estate, mahal, share, or land under his own management, or place it under the management of any agent whom he may appoint for the purpose.

Effect of attachment.

(2) During the continuance of such attachment the defaulter shall be excluded from possession of the estate, mahal, share or land attached, and the Deputy Commissioner or the agent appointed by him shall have all his rights to manage the same and to realize the rents and profits arising therefrom, and shall be bound by all his liabilities as proprietor to any inferior proprietors or tenants thereof.

Profits of land how applied.

(3) The surplus profits of such estate, mahal, share or land, after defraying the cost of the attachment and management, shall be applied, first, to the payment of any land-revenue becoming due in respect thereof during the continuance of such attachment, and next, to discharging the arrear for the recovery of which the attachment was made.

Duration of attachment.

(4) The attachment shall continue until the arrear is paid or realized from the profits of such estate, mahal, share or land, or the Deputy Commissioner reinstates the defaulter in possession :

Provided that no attachment shall continue beyond five years from the first day of the agricultural year next following its commencement.

134. (1) If the process specified in section 128, clause (d), is to be enforced, the person, to whom the share or land in respect of which the arrear is due is to be transferred, shall pay the arrear or give security for the payment thereof to the satisfaction of the Deputy Commissioner. Transfer under section 128(d).

(2) No such transfer shall be made for a term exceeding fifteen years from the first day of the agricultural year next after the date on which it is sanctioned by the Financial Commissioner.

(3) No proceedings taken under this section shall affect the joint and several liability of the proprietors of the estate or mahal for arrears accruing in respect of the estate or mahal subsequently to the transfer of the share or land, except that, as regards all such arrears, the transferee shall stand in the place of the proprietor whose share or land is transferred. Joint and several liability not affected by transfer.

135. (1) If the Financial Commissioner sanctions the annulment of the settlement of any estate, mahal or land under section 128, clause (e), the Deputy Commissioner shall proclaim such annulment, and may then exclude the defaulter from the possession of the estate, mahal or land, and either manage it or any portion thereof himself or through an agent or let it or any portion thereof in farm for such term and on such conditions as the Financial Commissioner directs: Procedure after receipt of sanction to annulment of settlement.

Provided that no management or farm under this section shall continue for a longer period than fifteen years from the first day of the agricultural year next after the proclamation of annulment of settlement.

(2) After the date of such proclamation no liabilities shall accrue under the settlement so annulled, but such annulment shall not affect anything done or any liability incurred under the settlement before such date.

(3) If a portion only of the estate, mahal or land is managed or let in farm under this section, the remainder shall be separately re-settled with the proprietors thereof and the provisions of sections 82, 83 and 86 to 97 shall apply to such re-settlement. Case of a portion of a mahal being managed or farmed.

(4) As soon as the management or farm of any estate, mahal or land or portion thereof has ceased, the Deputy Commissioner shall offer to the persons entitled under section 82 to an offer of assessment a new assessment, on such conditions as the Financial Commissioner may direct, for the remainder of the term of the settlement, and, if such offer is refused, the Deputy Commissioner may, with the previous sanction of the Financial Commissioner, let such estate, mahal or land or portion thereof in farm or may manage it himself or through an agent for the remainder of the term of settlement. Settlement on expiry of management of farm.

Effect of  
annulment of  
settlement.

136. No transfer made, lien or incumbrance created by the defaulter, or by any person through or under whom he claims, of or upon any estate, mahal, share or land managed or let in farm under this Act, shall, during such management or farm, be binding upon Government, its agent or lessee.

Saving of  
rights in  
sir-land.

137. (1) No defaulter shall be deprived of his sir-land in the execution of any of the processes mentioned in section 128, clauses (c), (d) and (e) ; but every such defaulter shall, while such process is being enforced, be entitled to occupy the sir-land on payment of such annual sum as may be fixed by the Deputy Commissioner.

(2) If such sum or any part thereof remains unpaid, it may be recovered as if it were an arrear of land-revenue, and the defaulter shall cease to be entitled to occupy the sir-land and may be ejected therefrom by order of the Deputy Commissioner.

Nature of  
estate taken  
by purchaser  
of land sold  
for arrears  
due thereon.

138. (1) Unless the Financial Commissioner in sanctioning the sale otherwise directs, the purchaser of any estate, mahal, share or land sold for arrears of land-revenue due in respect thereof, shall acquire it free of all incumbrances imposed on it, and all grants and contracts made in respect of it, by any person other than the purchaser.

(2) Nothing in sub-section (1) applies to—

- (a) tenant-rights recognized by or arising under the <sup>1</sup>Central Pro- XI of 1888, <sup>2</sup>tenancy Act, 1898 ; or
- (b) lands held under leases at fair rents for the erection of dwelling houses, places of worship, or manufactories or for mines, minerals, quarries, gardens, burial and cremation grounds, tanks or canals, so long as such lands continue to be used for the purpose for which they were leased.

(3) The Financial Commissioner may determine which rents shall be deemed to be fair rents within the meaning of sub-section (2), clause (b).

(4) Any transfer, grant or contract in respect of trees or the produce of trees which are or at any time have been the property of the proprietor of the estate, mahal, share or land in which they stand shall be deemed to be a grant or contract made in respect of such estate, mahal, share or land within the meaning of sub-section (1).

Proclamation  
of sale.

139. If the sale of any immoveable property has been sanctioned under section 128, the Deputy Commissioner shall issue a proclamation of the intended sale specifying the property to be sold, and the land-revenue, if any, assessed thereon, the arrears due, the time and place of sale and any other particulars which the Deputy Commissioner may think necessary.



140. No officer having any duty to perform in connection with any sale under this Act, and no person employed by, or subordinate to, such officer shall, either directly or indirectly, bid for, acquire or attempt to acquire, except on behalf of Government or the Court of Wards, the property sold or any interest therein.

Prohibition to bid for or to acquire the property sold.

141. (1) Every sale of immoveable property shall be by public auction held either by the Deputy Commissioner or by a Revenue Officer appointed by him in this behalf.

Sale how, when and by whom to be held.

(2) No such sale shall take place on a Sunday or other authorized Civil Court holiday, or until after the expiry of at least thirty days from the date on which the proclamation thereof was published.

(3) The officer holding the sale may, from time to time, postpone it.

142. The person declared to be the purchaser shall deposit immediately twenty-five per cent. on the amount of his bid, and, in default of such deposit, the property shall forthwith be re-sold and the costs of the first sale and any deficiency of price which may occur on the re-sale, may be recovered from such person by the Deputy Commissioner.

Deposit by purchaser. Re-sale in default.

143. If the arrear in respect of which the property is to be sold is paid at any time before the lot is knocked down, the sale shall be stayed.

When sale may be stayed.

144. (1) Unless an application has been made under section 145, the full amount of purchase-money shall be paid by the purchaser on or before the fifteenth day from the date of the sale, and if the purchase-money is not so paid, the deposit, after the expenses of the sale have been defrayed therefrom, shall be forfeited to Government and the property shall be re-sold, and the defaulting purchaser shall forfeit all claims to the property, or to any part of the sum for which it may subsequently be sold.

Purchase-money when to be paid. Effect of default.

(2) If the proceeds of the sale which is eventually made are less than the price bid by such defaulting purchaser, the difference may be recovered from him by the Deputy Commissioner.

Liability of purchaser for loss by re-sale.

145. (1) Any person whose immoveable property has been sold under this Act may, at any time within thirty days from the date of sale, apply to the Deputy Commissioner to have the sale set aside on his depositing—

Application to set aside sale on deposit of arrear, etc.

(a) for payment to the purchaser, a sum equal to five per cent. of the purchase-money;

(b) for payment on account of the arrear, the amount specified in the proclamation of sale as that for the recovery of which the sale was ordered, less any amount which may have been paid since the date of the sale on that account; and

(c) the costs of the sale.

(2) If such deposit is made within thirty days from the date of the sale, the Deputy Commissioner shall pass an order setting aside the sale :

Provided that, if a person applies under section 146 to have such sale set aside, he shall not be entitled to make an application under this section.

Application to set aside sale for irregularity, etc.

146. At any time within thirty days from the date of sale, any person may apply to the Deputy Commissioner to set aside the sale on the ground of some material irregularity or mistake in publishing or conducting it, and the Deputy Commissioner may, after giving notice to the persons affected thereby, pass an order setting aside the sale, and may order re-sale ; but no sale shall be set aside on such ground unless the applicant proves to the satisfaction of the Deputy Commissioner that he has sustained substantial injury by such irregularity or mistake.

Proclamation before re-sale.

147. No sale, after postponement for a period exceeding seven days under section 141, and no re-sale under section 144 or 146, shall be made until a fresh proclamation has been published as prescribed in section 139.

Order confirming sale.

148. On the expiry of thirty days from the date of sale, if no application has been made under section 145 or 146, or if such application has been made and rejected, the Deputy Commissioner shall pass an order confirming the sale.

Bar of claims founded on irregularity or mistake.

149. (1) If no application under section 146 is made within the time allowed therefor, all claims on the ground of irregularity or mistake shall be barred.

(2) Nothing in sub-section (1) shall bar the institution of a suit in the Civil Court to set aside a sale on the ground of fraud or on the ground that the arrear for which the property is sold is not due.

Purchaser to be put in possession.  
Certificate of purchase.

150. If the sale of any immoveable property has been confirmed, the Deputy Commissioner shall put the purchaser in possession of such property and shall grant him a certificate, specifying the date on which the sale is confirmed, the property sold and the name of the purchaser.

Pre-emption at sales.

151. If, in the course of a sale of an estate or mahal or share therein, either under this Act, or in execution of a decree of a Civil Court, the property is knocked down to a stranger, the following persons may claim to take it at the sum last bid, in the following order :—

(a) any recorded co-sharer other than the person whose share is being sold :

Provided that, if the sale is for arrears of land-revenue, such co-sharer has paid the land revenue which, as between him and the other co-sharers, is payable by him ;

(b) if the superior proprietorship is sold, the inferior proprietor ;

(c) if the inferior proprietorship is sold, the superior proprietor :

Provided that such claim is made at any time before the sale is confirmed and the claimant undertakes to fulfil all the conditions of the sale binding on the purchaser.

152. If the sale of any property is set aside under section 145 or 146, or a right of pre-emption is exercised under section 151, any amount deposited by the original purchaser shall be repaid to him.

Refund of purchase-money when sale is set aside.

153. The proceeds of every sale in execution of any process specified in section 128 shall be applied, firstly, in satisfaction of the arrear on account of which the sale was held and of the expenses of such sale, and, secondly, to the payment of any other arrear due to Government by the defaulter, and the surplus, if any, shall then be payable to him, or where there are more defaulters than one, to such defaulters according to their respective shares in the property sold.

Application of proceeds of sale.

154. The costs of serving a notice of demand under section 127 or of enforcing any process specified in section 128 shall be recoverable as part of the arrear in respect of which the notice was served or the process was issued.

Costs recoverable as part of arrear.

155. (1) If proceedings are taken under this Chapter against any person for the recovery of an arrear of land-revenue or of any sum recoverable as such, he may pay the amount claimed and may, at the same time, deliver a protest signed by himself or by his authorised agent to the officer taking such proceedings, and thereupon they shall be stayed.

Payment under protest and suit for recovery.

(2) Any person complying with the provisions of sub-section (1) may institute a suit for the recovery of the money so paid and in such suit may, notwithstanding anything contained in section 126, prove that nothing was due or that the amount due was less than the amount for the recovery of which the proceedings were taken.

(3) Government shall not be made a party to any suit brought for the recovery of money paid under sub-section (1), unless the arrear or sum was payable to Government.

156. In a suit for the recovery of any sum payable under a sub-settlement and in a suit brought by a sadar lambardar or lambardar to recover the amount of any land-revenue payable to Government through him, the defendant shall not, except with the permission of the Court,—

Limitation of right to set off, etc., in suit for arrears.

(a) set-off against the plaintiff's demand any sum of money recoverable by him from the plaintiff; or

(b) claim credit for any payment purporting to have been made on account, if such payment was made before the date on which the amount thereof became due.

Recovery of  
revenue  
through  
Deputy Com-  
missioner  
instead of by  
suit.

157. (1) Any sadar-lambardar or lambardar who has paid any land-revenue due by any proprietor, or by any malik-makbuza, may, within six months from the date of such payment, apply in writing to the Deputy Commissioner to recover the amount on his behalf.

(2) If any estate or mahal is held under a sub-settlement, or by a protected thekadar whose theka-jama has been recorded or fixed under section 108 or 109, or by a protected headman, and the sum payable under the sub-settlement or the theka-jama has fallen into arrears, the proprietor may, within six months from the date of the accrual of the arrears, apply in writing to the Deputy Commissioner for their recovery.

(3) The Deputy Commissioner may reject such application, or, after satisfying himself that the amount claimed, or any part thereof, is due and after giving the person against whom the claim is made an opportunity to show cause, may, subject to rules made under section 227, proceed to recover, as if it were an arrear of land-revenue, such amount, with costs and interest, from the person held by him to be liable for the same.

(4) No appeal shall lie from an order under this section; but any person affected by such order may institute a suit in a Civil Court to establish the right which he claims:

Provided that Government shall not be made a party to such suit.

(5) If the Civil Court decides that no arrear was due, and the property has been sold for the recovery of arrears, the sale shall become void.

(6) No person on whose behalf the Deputy Commissioner proceeds to recover an arrear under this section shall thereby be relieved of his responsibility for any arrear of land-revenue due by him.

Remission  
or suspension  
of sum pay-  
able under  
sub-settlement  
or lease.

158. (1) If the land-revenue payable on any estate or mahal has been suspended or remitted, the Deputy Commissioner may, subject to rules made under section 227, order the suspension or remission of any sum payable under a sub-settlement or lease of proprietary rights in such estate or mahal.

(2) No suit shall lie for the recovery of any sum of which the payment has been remitted or, during the period of suspension, for the recovery of any sum, the payment of which has been suspended.

Saving of  
right of  
proprietor to  
recover reve-  
nue of land  
assessed to  
revenue and  
held free.

159. (1) Subject to the provisions of section 75, nothing in the <sup>1</sup>Indian Limitation Act, 1908, and no agreement made after the third day of November 1881, shall bar the right of the proprietors of any estate or mahal to recover land-revenue in respect of any land which, having been taken into account in the assessment of such estate or mahal, is held by any person without payment, or on payment of a sum less than the land-revenue payable thereon. <sup>IX of 1908</sup>

(2) The Financial Commissioner may exempt any case from the operation of sub-section (1).

(3) If land-revenue has not been separately assessed on such land, the proprietor may apply to the Deputy Commissioner who shall assess thereon a proportionate share of the land-revenue assessed on the estate or mahal, and such land-revenue shall thereupon become payable. Fixation of such revenue by the Deputy Commissioner.

160. (1) The limitation for a suit for the recovery of any sum payable under a settlement or sub-settlement, whether by enforcement of the charge specified in section 122 or otherwise or payable by a thekadar with a protected status, or by a protected headman, or for the recovery of a share of proprietary profits between lambardars and co-sharers, shall be three years and time shall begin to run from the first day of the agricultural year next following that to which the suit relates : Limitation in suits for recovery of sums payable under settlement and of proprietary profits.

Provided that, if payment of any such sum has been suspended, the period of suspension shall be excluded in computing the period of limitation.

(2) Any suit which would be barred under sub-section (1) may be instituted within one year after the commencement of this Act or within the period of limitation previously in force, whichever period expires first.

(3) In other respects the limitation of such suits shall be governed by the<sup>1</sup> Indian Limitation Act, 1908.

## CHAPTER XI.

### PARTITION.

161. Partition is either perfect or imperfect.

Perfect partition means the division of a mahal into two or more mahals. Perfect and imperfect partition.  
Imperfect partition means the division of a mahal or of a patti into two or more pattis :

Provided that, in the Sambalpur Territory, 'imperfect partition' means the division of the bhogra.

162. Any recorded co-sharer of a mahal and any person in whose favour a decree has been passed awarding to him a proprietary interest in a mahal, whether such interest consists of a fractional share in the mahal or a part of the mahal or of specific lands, is entitled to claim at any time imperfect partition of his share ; Persons entitled to imperfect partition.

Provided that an application for imperfect partition may be rejected on the ground that settlement proceedings are in progress in the mahal.

<sup>1</sup> General Acts, Volume VI.

Persons  
entitled to  
perfect  
partition.

163. Except in the Sambalpur Territory, any recorded co-sharer of a mahal, whose share, saving such part of it as may be impartible, has been completely separated from the rest of the mahal and is held by him in severalty, is entitled to claim perfect partition of his share at the time of the settlement of such mahal.

Applications  
for imperfect  
partition to  
be made to  
Deputy Com-  
missioner.

164. An application for imperfect partition shall be made in writing to the Deputy Commissioner of the district in which the mahal is situated :

Provided that, if the application relates to two or more mahals or shares situated in two or more districts, the application may be made in any one of those districts, and the partition shall be made by such one of the Deputy Commissioners of those districts as the Financial Commissioner may direct.

Deputy  
Commissioner  
may reject  
application or  
quash  
proceedings

165. If, on receipt of the application or at any other stage of a partition before confirmation, there appears to be any sufficient reason for disallowing the partition, the Deputy Commissioner may by an order in writing reject the application or order the proceedings to be quashed.

Refusal to  
partition  
very small  
shares.

166. If an application for imperfect partition involves the formation of a patti of which the area will be less than one hundred acres and the land-revenue less than one hundred rupees, the Deputy Commissioner may order the partition only of sir-land and khudkasht.

Procedure on  
receipt of  
application.

167. (1) If the application has not been rejected, the Deputy Commissioner shall publish a proclamation thereof and shall serve a notice on such of the recorded co-sharers in the mahal or patti as have not joined in the application requiring them to appear before him and state their objections, if any, on a day to be specified in the notice, not being less than thirty or more than sixty days from the date on which such notice was issued.

(2) If from any cause notice cannot be personally served on any co-sharer, the proclamation shall be deemed sufficient notice under this section.

Objections  
to partition.

168. If, on or before the day specified or with the permission of the Deputy Commissioner at any later date, any objection is made to the partition by any co-sharer in possession, and the Deputy Commissioner is of opinion that there is good and sufficient reason why the partition should be disallowed, he may, by an order in writing, reject the application.

Objection  
raising  
question of  
title.

169. (1) If the objection raises any question of title or of proprietary right, or any other question which it is essential to decide finally before the partition can be proceeded with, and such question has not already been determined by a Court of competent jurisdiction, the Deputy Commissioner may—

- (a) decline to grant the application until the question in dispute has been determined by a competent Court, or has been settled by a lawful compromise or award, or

(b) require any party to the case to institute within six months a suit in the Civil Court for the determination of such question, or to have it settled within six months by a lawful compromise or award ; or

(c) proceed to enquire summarily into the merits of such question, and pass orders thereon.

(2) If the proceedings have been postponed under sub-section (1), clause (b), and—

(a) if such party complies with the requisition, the Deputy Commissioner shall deal with the case in accordance with the decision of the Civil Court or the compromise or award, or

(b) if such party fails to comply with the requisition, the Deputy Commissioner shall decide the question against him.

(3) If the Deputy Commissioner proceeds under sub-section (1), clause (c), his order shall not be subject to appeal or revision ; but any party may, within six months from the date of such order, institute a suit in the Civil Court to have the order set aside, and the decision of such Court shall be binding on the Deputy Commissioner, but, subject to the result of such suit, if any, the order of the Deputy Commissioner shall be conclusive.

170. If the Deputy Commissioner decides that a partition may be made, he may give the parties the option of making the partition themselves or of appointing arbitrators for the purpose.

Option to parties to make partition themselves or appoint arbitrators.

171. Before making the partition, the Deputy Commissioner shall record a proceeding specifying the lands held in severalty, if any, and the lands held in common, and laying down the principles to be followed in making the partition.

Proceeding to be recorded by the Deputy Commissioner before making partition.

172. (1) When the partition proceeding has been recorded under section 171, the Deputy Commissioner shall estimate the cost of making the partition and shall direct that such cost be levied in the first instance from the applicant in such instalments and at such times as he thinks fit, and, if the amount first estimated is found insufficient, he may, from time to time, make a supplementary estimate and may levy the additional amount in the manner above provided.

Preparation of estimates of cost of partition and payment of cost.

(2) If the amount is not paid as ordered by the Deputy Commissioner, the application may be dismissed.

Each patti to be made as compact as possible.

173. (1) The patti of each sharer shall be as compact as possible:

Provided that, so far as may be compatible with fairness of partition, lands held in severalty shall be left in the possession of the parties holding the same.

(2) No partition shall be disallowed solely on the ground of incompactness.

Rule when house of one sharer is included in the patti of another.

174. (1) If, in making the partition, it be necessary to include in any patti the land occupied by a dwelling-house or other building in the possession of another co-sharer, such co-sharer shall be allowed to retain such land, with any buildings thereon, on condition of his paying a reasonable ground-rent to the co-sharer in whose patti it may be included.

(2) The limits of such land and the ground-rent shall be fixed by the Deputy Commissioner.

Sir-land or khudkasht belonging to one sharer not to be included without his consent in the patti of another sharer.

175. (1) No sir-land or khudkasht which is the exclusive property of any co-sharer shall be included in the patti assigned on partition to another co-sharer unless with the consent of the owner, or unless the partition cannot otherwise conveniently be made.

(2) If such land be so included, the Deputy Commissioner shall declare the owner to be an occupancy tenant of the same and shall fix the rent payable therefor.

Rules as to tanks, wells and other irrigation works.

176. Tanks, wells, water-courses and embankments shall be treated as attached to the land for the benefit of which they were originally made:

Provided that, if it appears necessary to the Deputy Commissioner that such works should continue to be joint property, he shall determine the extent to which the proprietors may respectively make use of them, as well as the proportion of the charges for the repairs of such works to be borne by the respective proprietors, and the manner in which the profits, if any, derived therefrom shall be divided.

Rule regarding places of worship and burial and cremation grounds.

177. (1) Places of worship, burial and cremation grounds held in common previous to the partition shall continue to be so held unless the parties otherwise agree among themselves

(2) Such agreement shall be in writing and shall be filed with the record.

Joint rights over communal land.

178. If it appears necessary to the Deputy Commissioner in the interests of the village that any land over which there exist communal rights recorded in the village administration paper should continue to be joint property, he may direct that it shall so continue.

Division of tenant's holding.

179. If, in the course of a partition, the holding of any tenant is divided, the Deputy Commissioner shall distribute the rent of the holding over the parts thereof.



180. If partition is made, the Deputy Commissioner shall apportion among the pattis, sums payable under a settlement or sub-settlement or otherwise under an assessment made under this Act, but such apportionment shall not affect the joint and several liability of the pattis and their proprietors for such payments.

Apportionment of sums payable among pattis.

181. If the partition is made by an Assistant Commissioner such partition shall not be complete until it is confirmed by the Deputy Commissioner.

Confirmation of partition.

182. When a partition is completed, a proclamation thereof shall issue, and such partition shall take effect from the commencement of the agricultural year next following the date of such proclamation.

Proclamation of partition.

183. (1) Notwithstanding anything contained in this Chapter, if an application for imperfect partition is made in respect of a property which consists of two or more mahals or shares, the property may be partitioned by the distribution of such mahals or shares among the co-sharers without imperfect partition thereof, or partly by such distribution and partly by imperfect partition.

Partition may be effected by distribution of mahals.

(2) In effecting a partition under sub-section (1), the other provisions of this Chapter shall, so far as may be, apply.

184. (1) An application for perfect partition shall be made to the Settlement Officer of the local area in which the mahal is situate.

Applications for perfect partition to be made to Settlement Officer.

(2) Such application shall show that the share, which it is desired to form into a separate mahal, is already held in severalty, saving such portion of it as may be impartible.

(3) No perfect partition shall be allowed by which a mahal will be formed with an area of less than one hundred acres, unless the land-revenue thereof be more than one hundred rupees.

Disallowance of perfect partition of very small shares.

185. (1) Subject to rules made under section 227, the Settlement Officer may, after making with the consent of the parties such modifications in the pattis as he thinks necessary, declare the pattis to be separate mahals :

Settlement Officer may declare pattis to be separate mahals.

Provided that no patti shall be declared to be a separate mahal until the proprietors of other pattis in the mahal have been given an opportunity of objecting.

(2) Except with the sanction of the Commissioner, an incompact patti shall not be declared to be a separate mahal.

186. If two or more mahals forming portions of the same village, or two or more pattis forming portions of the same mahal, are held by the same proprietors, the Deputy Commissioner, or, if a settlement is in progress, the Settlement Officer may, after considering the objection, if any, of the proprietor, unite such mahals or pattis and correct the records accordingly.

Union of mahals or pattis forming parts of the same village or mahal.

## CHAPTER XII.

## VILLAGE OFFICERS AND VILLAGE MANAGEMENT.

Appointment  
of lambardars.

187. (1) Subject to rules made under section 227, there shall be appointed one or more lambardars for each mahal or patti to perform the duties imposed, and exercise the powers conferred, on a lambardar by this Act.

(2) If the office of lambardar becomes vacant or if at any time the Deputy Commissioner decides that one or more additional lambardars shall be appointed, a Revenue Officer not below the rank of Tahsildar shall appoint one of the proprietors of the mahal or patti to be lambardar.

Lambardar-  
gumashtas.

(3) If the lambardar is a minor or unfit to perform the duties of the office through any infirmity of body or mind, or is a female who is unable to perform such duties, such Revenue Officer shall appoint a lambardar-gumashta for the purpose.

Regard to be  
paid to  
custom and  
hereditary  
claims.

(4) All appointments of lambardar or lambardar-gumashta shall be made in accordance with rules made under section 227 :

Provided that, in making rules for appointment to the office of lambardar, regard shall be paid among other matters to local custom and hereditary claims and to entries on the subject in the village administration paper.

Sadar-lam-  
bardars.

(5) If in any mahal more lambardars than one have been appointed, such Revenue Officer shall, subject to rules made under section 227, determine to which of such lambardars the land-revenue payable by any proprietor or mailik-makhuza shall be paid, and may appoint one of such lambardars to be sadar-lambardar, whose duty it shall be to collect from the lambardars the land-revenue assessed on the mahal and pay it to Government.

*Explanation*—In this section, “proprietor” includes a transferee of proprietary rights in possession and a thekadar with protected status.

Duties of  
lambardars.

188. (1) It shall be the duty of every lambardar—

(a) to collect and pay into the Government treasury, or, if a sadar-lambardar has been appointed, to the sadar-lambardar, so much of the land-revenue as may, under section 187, sub-section (5), be payable through him ;

(b) to collect and pay to the mukaddam or into the Government treasury, as the Deputy Commissioner may direct, all sums of money payable through him either solely or jointly with other lambardars, by the proprietors of the mahal or patti for which he is appointed, on account of the remuneration of the mukaddam or village-watchmen, or on account of any expenses which the mukaddam is authorized to recover from the lambardars of his village ;

- (c) to assist the mukaddam in obtaining all particulars which he is bound to report under this Act or any other enactment for the time being in force.

(2) The lambardar shall in the mahal or patti for which he is appointed, — Powers of lambardars.

898. (a) be deemed to be the landlord within the meaning of the <sup>1</sup>Central Provinces Tenancy Act, 1898 ;
- (b) exercise the powers of the proprietors in matters relating to the village abadi and the enjoyment of their rights and privileges by tenants and others over the waste land of the village, including the grazing of cattle thereon ;
- (c) collect the village profits and render an account of the same to the proprietors within six months of the close of the agricultural year ; and
- (d) if necessary, institute suits and take other proceedings relating to the exercise of the aforesaid powers and against trespassers on the common property.

189. Subject to rules made under section 227, the Deputy Commissioner may remove a sadar-lambardar, lambardar or lambardar-gumashta from office— Removal of sadar-lambardars, lambardars and lambardar-gumashtas.

- (a) on the application of any proprietor ;
- (b) for bad character or gross misconduct ; or
- (c) for neglect, or improper discharge, of the duties imposed on him under this Act or under any other enactment for the time being in force.

190. (1) In every village there shall be appointed, in accordance with rules made under section 227, a mukaddam, who shall ordinarily be a lambardar or patel. Appointment of mukaddams and mukaddam-gumashtas.

(2) If a lambardar who does not reside in the village is appointed mukaddam thereof, he shall appoint an agent, to be approved by a Revenue Officer, not below the rank of Tahsildar, who shall be called the mukaddam-gumashta, to perform the duties of mukaddam :

Provided that no agent need be appointed for any uninhabited village ; and that the Deputy Commissioner may exempt any specified village from the operation of this section.

(3) If, in the case specified in sub-section (2), there are co-sharers resident in the village, the mukaddam shall appoint one of them to be his agent, unless a Revenue Officer not below the rank of Tahsildar allows him to appoint some other person.

<sup>1</sup> *Supra*, p. 131.

(4) If the mukaddam fails within a reasonable period to appoint an agent, such Revenue Officer may himself appoint such agent, and shall fix the remuneration payable to him by the mukaddam.

Powers and liabilities of mukaddam-gumashtas.

191. A mukaddam-gumashta shall be deemed to have the powers conferred on a mukaddam by this Act and the rules made thereunder, and to be responsible jointly with the mukaddam for the duties so prescribed.

Remuneration of lambardars, lambadar-gumashtas and mukaddams.

192. (1) The remuneration of the lambardar, lambadar-gumashta and mukaddam shall be fixed by the Deputy Commissioner and shall be recoverable by the lambardar from the proprietors of the mahal or patti for which he is appointed :

Provided that—

(i) except with the previous sanction of the Commissioner the aggregate sum so payable by any proprietor shall not exceed five per cent. on the land-revenue which is assessed on his land, or, if the land is held wholly or partly free of revenue, on the kamil-jama of each land ;

(ii) no such recovery shall be made from a malik-inakhuza.

(2) If a lambardar is not mukaddam, he shall pay to the mukaddam such sum as may be fixed by the Deputy Commissioner :

Provided that—

(i) except with the previous sanction of the Commissioner the sum so payable by any lambardar shall not exceed five per cent. on the land revenue payable by him as lambardar, or, if such revenue is wholly or partly assigned, on the kamil-jama ;

(ii) the percentage on land-revenue fixed under this sub-section shall not exceed the percentage on land-revenue fixed under sub-section (1).

(3) Any expenses necessarily incurred by the mukaddam in the performance of his duties shall be recoverable from the proprietors in the manner specified in sub-section (1).

Duties of mukaddams.

193. It shall be the duty of every mukaddam—

(a) to control and superintend the village watchman ; to report his death or absence from duty ; to maintain him in the possession of any lands appertaining to his office ; to recover and pay to him any remuneration to which he may be entitled ; and to take such steps as may be necessary to compel him to perform his duties ;

(b) to furnish reports regarding the state of his village, at such places and times as the Deputy Commissioner may fix in this behalf ;

(c) to report and, if possible, to prevent encroachments on the public paths and roadways in his village ;

- (d) to preserve such stations and marks erected in his village by Government Surveyors as may be made over to his care ;
- (e) subject to rules made under section 227, to keep his village in good sanitary condition ;
- (f) to report the contravention of, or failure to observe any rule, custom or condition entered in the village administration paper or any rule made under section 202 ;
- (g) to secure to persons entitled to cut wood and enjoy other privileges in the waste-land of the village the rights to which they are entitled ;
- (h) to collect, or aid in the collection of, all payments due to Government in his village ;
- (i) to report, at such places and times as the Deputy Commissioner may fix in this behalf, all births and deaths taking place in the village ;
- (j) to perform such other duties as may be prescribed by rules made under section 227.

194. If, by any enactment for the time being in force, any public duties are imposed on, or public liabilities are declared to attach to, land-holders, their managers and agents, such duties shall be deemed to be imposed on, and such liabilities shall be held to attach to, mukaddams appointed under this Act :

Provided that nothing herein contained shall discharge land-holders, their managers or agents, from any duties or liabilities otherwise imposed upon them by law.

195. Subject to rules made under section 227, the Deputy Commissioner may remove from office any mukaddam or mukaddam-gunashita.

Removal of mukaddams or mukaddam-gunashitas.

196. (1) For each village or group of villages there shall be appointed, in accordance with rules made under section 227, one or more kotwars or village watchmen.

Appointment of kotwars.

(2) The Deputy Commissioner shall, subject to rules made under section 227, fix the remuneration which kotwars or village-watchmen are entitled to recover from the proprietors, malik-makbuzas, tenants, holders of survey-numbers and residents of the village or villages for which they are appointed.

197. Any sums which lambardars, lambardar-gunashitas, mukaddams, mukaddam-gunashitas and village-watchmen are entitled to recover or demand under this Act or the rules made thereunder may, if the Deputy Commissioner so directs, be recovered in the same manner as an arrear of land-revenue payable to Government.

Lambardars' and other officers' dues recoverable as arrears.

Penalty for failure to perform duty or for abuse of authority by mukaddam or mukaddam-gumashita.

198. (1) Any mukaddam or mukaddam-gumashita, who fails to perform any duty imposed, or abuses any power conferred, on him by this Act or the rules made thereunder, shall be liable, on the order of the Deputy Commissioner, to a fine which may extend to fifty rupees.

(2) Any fine imposed on a mukaddam-gumashita under sub-section (1) may be recovered either from the mukaddam-gumashita or from the mukaddam :

Provided that, before the fine is recovered from the mukaddam, he shall be given an opportunity of showing cause why the fine should not be recovered from him.

Penalty for neglecting or disobeying orders of mukaddam or mukaddam-gumashita.

199. Any person who neglects or disobeys any reasonable order made by a mukaddam or mukaddam-gumashita in pursuance of any duty imposed on him by section 193, clauses (c), (d), (e), (f), (g) and (h), shall be liable, on the order of the Deputy Commissioner, to a fine which may extend to twenty rupees.

Liability of owners of animals or of persons in receipt of village-cess in respect of carcasses.

200. (1) The owner or person in charge of an animal which has died within the limits of any village is bound to dispose of its carcass, including the skin, hide, hair or wool, in such manner as may be required by rules made under section 227 ; or, if a village-cess leviable for the performance of this duty, the person or class of persons to whom the cess is payable shall be so bound.

(2) Whoever fails or neglects to perform the duty imposed by sub-section (1) shall be liable, on the order of the Deputy Commissioner, to a fine which may extend to twenty rupees.

(3) Any person to whom a village-cess is payable under section 76 in return for services to be rendered under sub-section (1) may, by application to the Deputy Commissioner, renounce his claim to the cess, and shall thereupon be relieved of the liability to perform the duty imposed by sub-section (1).

Punishment for violation of rule or custom.

201. (1) Any person bound by any rule or custom entered in the village administration paper, who contravenes or fails to observe such rule or custom, shall be liable, on the order of the Deputy Commissioner, to a fine which may extend to two hundred rupees :

Provided that such person may institute a suit in the Civil Court to have such order set aside on the ground that no rule or custom was contravened or not observed, and to recover the fine and costs incurred in the proceedings, and such further sum as compensation as the Court thinks fit.

(2) The Deputy Commissioner may apply the whole or any part of the fine either to meeting the cost of such measures as may be necessary to pre-

vent loss or injury to any person or to the public owing to such contravention or failure, or to compensating any persons who may, in his opinion, have suffered loss or injury therefrom.

202. (1) The Chief Commissioner may make rules regulating the control and management of the forest-growth on the lands of any estate or mahal, and the exercise of any right of user over such forest-growth, and may attach to the breach of such rules a penalty not exceeding two hundred rupees, or, if the breach be a continuing one, a penalty not exceeding ten rupees for each day during which such breach continues.

Powers to regulate control and management of forest-growth.

(2) The Deputy Commissioner may direct that the whole or any part of any sum recovered under the rules made under sub-section (1) shall be paid as compensation to any person or persons to whom loss or injury has been caused, or that it shall be expended in such manner as he may deem fit for the benefit of the forest-growth.

(3) The Deputy Commissioner may confiscate and sell any timber or other forest produce cut or removed in contravention of any rule made under sub-section (1), and may apply the proceeds of sale to either or both of the purposes mentioned in sub-section (2).

(4) If the proprietor is guilty of any material violation of the rules made under sub-section (1), the Deputy Commissioner may—

(a) proclaim that the forest-growth of the estate or mahal will be protected by Government; or

(b) issue notice to the proprietor to show cause, within a reasonable time to be specified in the notice, why he should not be excluded from the possession of the forest land.

(5) Until the proclamation made under sub-section (4), clause (a), is withdrawn, it shall be unlawful for any person to cut or cause to be cut, for sale, or for conveyance of use outside the village area, any timber, bamboos or brushwood, save with the previous sanction of the Deputy Commissioner and in the manner and to the extent permitted by him.

(6) If no sufficient cause is shown against an order under sub-section (4), clause (b), the Deputy Commissioner may, with the previous sanction of the Commissioner, exclude such proprietor from the possession of the forest land and assume the direct management thereof for a term to be fixed by the Commissioner.

(7) The costs of management shall be payable by the proprietor, or by the superior or inferior proprietors in such proportions as the Commissioner may direct.

(8) The profits of such forest land, while under direct management, shall be paid to the proprietor or to the superior and inferior proprietors.

(9) No lease, lien, incumbrance or contract with respect to the forest land held under direct management shall be binding upon Government.

(10) On the expiration of the period fixed for the direct management, the forest land shall be restored to the proprietor thereof.

*Explanation.*—In this section, “proprietor” includes a transferee of proprietary rights and a thekadar with protected status.

Rights in  
house-sites  
in mahals.

203. (1) Every person holding land in a mahal for agricultural purposes otherwise than as a sub-tenant, or ordinarily working therein as an agricultural artisan or labourer, and the village-watchman, are entitled to a house-site of reasonable dimensions in the abadi free of rent.

(2) Such person, on ceasing to hold such land, or to work as an agricultural artisan or labourer, or to be the village-watchman, shall forfeit his right under sub-section (1).

(3) A person holding a site under sub-section (1) shall be incompetent to transfer it except to his next heir or to a person entitled to and not already in possession of such site :

Provided that the materials of any house erected thereon shall be transferable.

(4) The proprietor of the mahal shall be entitled to allot sites in the abadi, but any dispute regarding such allotment shall be decided by a Revenue Officer not below the rank of Tahsildar.

(5) The Financial Commissioner may, after such enquiry as he thinks fit, declare that in any village the rights of persons other than those specified in sub-section (1) in house sites or houses in the abadi shall, notwithstanding any entry in the village administration paper, be heritable and transferable.

(6) In issuing any notification under sub-section (5) the Financial Commissioner may declare that it shall apply to suits pending at the date of its issue, and to appeals from decrees for ejectment either so pending or instituted in accordance with law within three months from such date.

(7) If a site, with or without the house on it, in an abadi to which sub-section (5) applies, is transferred otherwise than by a lease for a term not exceeding seven years, or is sold or foreclosed by the order of a Civil Court, the proprietor of the mahal shall be entitled to recover from the transferee a sum as nazarana equal to five per cent. on the value of the property transferred, sold or foreclosed :

Provided that, if the Financial Commissioner, by notification, declares that in such abadi the consent of the proprietor has not ordinarily been obtained to transfers, no nazarana shall be recoverable.

(8) Nothing in this section shall affect the terms of any contract between the proprietor and the holder of a site in the abadi.



(9) In a mahal in which there are both superior and inferior proprietor the inferior proprietor shall exercise the powers and have the rights conferred on a proprietor under this section.

*Explanation*—In this section, “ proprietor ” includes a transferee of proprietary rights in possession and a thekadar with protected status.

## CHAPTER XIII.

### RAIYATWARI VILLAGES

204. The Chief Commissioner shall issue instructions for the assessment of survey-numbers, and may make rules prescribing the conditions on which such survey-numbers are to be held and the purposes to which they may be appropriated. Assessment of raiyatwari villages.

205. On every survey-number, unless the Financial Commissioner otherwise directs, a definite and separate sum shall be assessed as land-revenue, but the sum so assessed may be reduced in such manner and to such extent as the Chief Commissioner thinks fit for any period not exceeding fifteen years from the date on which the assessment takes effect. Assessment may be reduced.

206. (1) The assessment of a survey-number shall, in the first place, be offered to the raiyat, if any, holding the survey-number. Assessment to whom to be offered.

(2) If the raiyat accepts the assessment and the conditions of tenure, he shall execute an acceptance in such form as the Financial Commissioner may prescribe, and shall deliver the same to the Settlement Officer.

(3) Any raiyat, who within thirty days fails to execute and deliver such acceptance, or to inform the Settlement Officer that he refuses the assessment, shall, if the Settlement Officer by an order in writing so directs, be deemed to have accepted such assessment.

207. If the raiyat refuses to accept the assessment of a survey-number, he may be ejected by the Deputy Commissioner and the assessment may be offered to any co-sharer of the ejected raiyat or, if such co-sharer refuses, to any other person : Effect of refusal of assessment.

Provided that the raiyat shall be entitled to remove any crop standing on the ground.

208. (1) If a raiyat wishes to appropriate his land or any part thereof to any purpose other than that for which it was granted, he shall apply for permission to the Deputy Commissioner who may, after enquiry, grant or refuse the same. Revision of assessment on appropriation of land to a purpose other than that for which it was granted.

(2) If in pursuance of permission granted under sub-section (1) such appropriation is made, the land-revenue, if any, assessed on the survey-number shall, notwithstanding anything contained in section 205, be liable

to be revised, and the Deputy Commissioner may, subject to rules made under section 227, also impose and realise a premium.

Appointment  
of patels.

**209.** In every raiyatwari village the Deputy Commissioner shall, in accordance with rules made under section 227, appoint one of the raiyats to be the patel.

Duties of  
patels.

**210.** It shall be the duty of the patel—

- (a) to collect and pay into the Government treasury the land-revenue assessed on the survey-numbers or lands of his village ;
- (b) to report on the following matters relating to his village :—
  - (i) the abandonment of survey-numbers or lands ;
  - (ii) the encroachment by raiyats on waste land not included in their survey-numbers or lands ;
  - (iii) the non-payment of land-revenue ; and
  - (iv) any facts which indicate that default in the payment thereof is likely to be made ;
- (c) to assist the village-watchman of his village in the recovery of the dues to which he is entitled ;
- (d) to prevent the unauthorized cutting of wood in Government forests included in, or adjoining, his village, and to report any such unauthorized cutting in such forests ; and
- (e) to perform such other duties as may be prescribed by rules made under section 227.

Allotment of  
unoccupied  
land.

**211.** Unoccupied land in a raiyatwari village may, in accordance with rules made under section 227, be allotted by the Deputy Commissioner either directly or through the patel to any person who accepts the assessment and the terms of tenure thereof.

Right of  
raiyyat in-  
heritable,  
but not  
transferable.

**212. (1)** The right of a raiyyat in a survey-number or in a house-site in the abadi of a raiyatwari village shall devolve as if it were land, but shall not be transferable except to a person who, if he survived the raiyyat, would inherit his right, or to a co-sharer in such right, or, with the permission of the Deputy Commissioner, by a lease :

Provided that in any district in which the Financial Commissioner may direct that this proviso be applied, any raiyyat may transfer his survey-number for a term not exceeding two years for the cultivation of sugar-cane.

Right of  
raiyyat not  
liable to  
sale or  
foreclosure  
in execution  
of a decree.

**(2)** The right of a raiyyat in a survey-number or in a house-site in the abadi of a raiyatwari village shall not be sold or foreclosed in execution of a decree.

**(3)** A raiyyat is not entitled to claim partition of a survey-number, but the Deputy Commissioner may divide a survey-number and apportion the assessment between the holders thereof.

213. (1) If the proprietary rights in any mahal become vested in Government, any malik-makluzas or absolute occupancy tenants therein shall, if the Financial Commissioner so directs, be declared to have the status of "raiyyat-malik," and all other tenants shall be declared to have the status of raiyyats.

(2) The right of a raiyyat-malik shall devolve as if it were land and shall be partible and transferable, and he shall otherwise be subject to all the provisions of this Act regarding raiyyatwari villages, except those contained in sections 207, 212 and 216, sub-sections (1), (2), (3) and (4).

(3) If any raiyyat-malik refuses to accept the assessment offered under section 206, the Settlement Officer may, with the previous sanction of the Financial Commissioner, exclude him from the possession of his holding for a period not exceeding the term of settlement, and the Deputy Commissioner may then either let the holding in farm or take it under direct management.

(4) Any raiyyat-malik excluded from the possession of his holding under sub-section (3) shall be entitled, during the period of such exclusion, to an allowance of not less than five per cent. or exceeding fifteen per cent. of the land-revenue assessed on the survey-number.

214. If a survey-number is held by two or more persons as co-sharers, the Deputy Commissioner may, subject to rules made under section 227, appoint one of such raiyyats to be primarily responsible for the land-revenue.

215. (1) Any raiyyat who has accepted an assessment, his representative or transferee shall be bound to pay the amount thereof, from such date and for such term as the Chief Commissioner may appoint in this behalf, unless he relinquishes the survey-number by presenting at the tahsil office a written notice of relinquishment, or by following such other procedure as the Financial Commissioner may prescribe, and such notice of relinquishment shall take effect from the commencement of the agricultural year next following:

Provided that the raiyyat shall be entitled to remove any crop standing on the ground.

(2) If a term has been fixed by the Chief Commissioner under sub-section (1), the land-revenue assessed on a survey-number shall not be enhanced during such term, except under section 208, or on the ground of an improvement effected at the cost of Government by which the letting value of the survey-number has been increased.

216. (1) A raiyyat may, subject to rules made under section 227, be ejected from his land by the Deputy Commissioner on the ground—

- (a) that he has failed to pay the land-revenue assessed thereon; or
- (b) that he has, in contravention of section 212, transferred his land or part thereof; or

- (e) that he has diverted the land without permission to any purpose other than that to which it was appropriated ; or
- (d) that he has persistently failed to cultivate the land ; or
- (c) that he has committed a breach of any of the conditions of tenure or of his acceptance thereof :

Provided that a raiyat shall not be ejected under clause (b), (c), (d) or (e) of this sub-section unless he has been given notice calling on him to comply with the condition which he has violated, and unless he has failed to do so within three months from the date of service of the notice.

(2) If any raiyat has been ejected under sub-section (1), clause (b), the Deputy Commissioner may also eject the transferee.

(3) With the previous sanction of the Financial Commissioner, any holder of a survey-number may be ejected by the Deputy Commissioner for any other reason on payment of compensation for disturbance, such compensation to be calculated, as nearly as may be, in accordance with the provisions of the Land Acquisition Act, 1894, by the Deputy Commissioner, or, if his award is not accepted, by the Civil Court, and to include the value of any improvements effected by him during the period of his tenure. 1 of 1894.

(4) Any ejectment under sub-section (1), clause (b), (c), (d) or (e) or under sub-section (2) or (3) shall not take effect until the close of the agricultural year in which the order of ejectment is passed :

Provided that the person ordered to be ejected shall be entitled to remove any crop standing on the ground.

(5) A raiyat who ceases to hold any survey-number in a village may be ejected by the Deputy Commissioner from his house-site :

Provided that he shall be allowed a reasonable time to remove the materials of his house.

Unauthorised  
occupation.

217. (1) Any person who occupies any land in a raiyatwari village without authority shall be liable to pay —

- (a) if the land forms part of a survey-number assessed to land-revenue, the assessment of the entire survey-number for the whole period of his occupation ; or
- (b) if the land has not been so assessed, such amount as the Deputy Commissioner may fix in accordance with rules made under section 227 ;

and shall also be liable, at the discretion of the Deputy Commissioner, to a fine not exceeding five rupees or a sum equal to ten times the amount of assessment payable by him for one year, if such sum be in excess of five rupees.

(2) Any person copying any land in a raiyatwari village without authority may, in addition to such fine, be summarily ejected from such land by order of the Deputy Commissioner, and any crop which may be standing on the land and any building which such person may have erected thereon, if not removed within such time as the Deputy Commissioner may fix, shall be liable to forfeiture.

(3) Any property forfeited under this section shall become the property of Government and shall be dealt with as the Deputy Commissioner may direct.

#### CHAPTER XIV.

##### MISCELLANEOUS.

218. (1) Unless it is otherwise expressly provided in the records of a settlement or by the terms of a grant made by Government, the right to all minerals, mines and quarries and to all fisheries in navigable rivers shall vest in Government, which shall have all powers necessary for the proper enjoyment of such rights.

Right to  
minerals,  
mines, quar-  
ries and fish-  
eries.

(2) The right to all mines and quarries includes the right of access to land for the purpose of mining and quarrying and the right to occupy such other land as may be necessary for purposes subsidiary thereto, including the erection of offices, workmen's dwellings and machinery, the stacking of minerals and deposit of refuse, the construction of roads, railways or tram lines, and any other purposes which the Chief Commissioner may declare to be subsidiary to mining and quarrying.

(3) If Government has assigned to any person its right over any minerals, mines or quarries, and if for the proper enjoyment of such right it is necessary that all or any of the powers specified in sub-sections (1) and (2) should be exercised, the Deputy Commissioner may, by an order in writing, subject to such conditions and reservations as he may prescribe, delegate such powers to the person to whom the right has been assigned :

Provided that no such delegation shall be made until notice has been duly served on all persons having rights in the land affected, and their objections have been heard and considered.

(4) If, in the exercise of the right herein referred to over any land, the rights of any persons are infringed by the occupation or disturbance of the surface of such land, Government or its assignee shall pay to such persons compensation for such infringement and the amount of such compensation shall be calculated by the Deputy Commissioner, or, if his award is not accepted, by the Civil Court, as nearly as may be, in accordance with the provisions of the Land Acquisition Act, 1894.

Compensa-  
tion for  
infringement  
of rights by  
the occupa-  
tion or  
disturbance  
of surface of  
land.

(5) No assignee of Government shall enter on or occupy the surface of any land without the previous sanction of the Deputy Commissioner, unless the compensation has been determined and tendered to the persons whose rights are infringed.

(6) If an assignee of Government fails to pay compensation as provided in sub-section (4), the Deputy Commissioner may recover such compensation from him on behalf of the person entitled to it, as if it were an arrear of land-revenue.

*Explanation.*—In this section, “minerals” include any sand or clay which the Chief Commissioner may declare to have a commercial value or to be required for any public purpose.

Encroachment on Government or communal land.

219. (1) Any person, who encroaches upon any land set apart by an entry in the village administration paper of a mahal for communal purposes, or upon any land which is the property of Government, may be summarily ejected by order of the Deputy Commissioner, and any crop which may be standing on the land, and any building or other work which he may have constructed thereon, if not removed by him within such time as the Deputy Commissioner may fix, shall be liable to forfeiture :

Provided that the Deputy Commissioner shall not exercise powers conferred by this sub-section in regard to encroachments made by buildings or works constructed before the commencement of this Act.

(2) No order under sub-section (1) shall prevent any person from establishing his rights in a Civil Court.

(3) If notice of an intention to institute a suit is delivered to the Deputy Commissioner, he shall desist from carrying out his order under sub-section (1) for a period of three months, and if such suit is filed within such period he shall stay his proceedings pending the decision of the Civil Court.

Exclusive jurisdiction of revenue authorities.

220. Except as otherwise provided in this Act, or in any other enactment for the time being in force, no Civil Court shall entertain any suit instituted or application made to obtain a decision or order on any matter which the Governor-General in Council, the Chief Commissioner, or any Revenue Officer is, by this Act, empowered to determine, decide or dispose of ; and in particular and without prejudice to the generality of this provision, no Civil Court shall exercise jurisdiction over any of the following matters :—

Matters excepted from jurisdiction of Civil Courts.

(a) any correction or revision of a record-of-rights under section 46 ;

(b) any question regarding the demarcation of boundaries under section 55 ;

(c) any matter provided for in sections 63 and 64 as to any land which appears to have no lawful owner ;

- (a) any matter provided for, or referred to, in section 73, 74, 75, or 193 as to estates, mahals or lands held or claimed to be held free from revenue, except rights arising under any contract between the Government of India and grantees of land ;
- (c) the formation of the record-of-rights, the preparation of any of the documents contained therein or the notification of settlement, and any matter required by section 79 to be entered in the village administration paper ;
- (f) the amount of land-revenue to be assessed under this or any enactment for the time being in force ;
- (g) the claim of any person to have an assessment offered to, or sub-settlement made with, him ;
- (h) any question as to the validity of any engagement with Government for the payment of land-revenue, or of any agreement entered into by superior or inferior proprietors in a settlement or sub-settlement ;
- (i) any decision regarding the purpose to which land is appropriated under section 88, proviso (ii) ;
- (j) any claim connected with, or arising out of, any process enforced on account of refusal to accept the assessment offered in a settlement or sub-settlement by the Settlement Officer or by the Deputy Commissioner ;
- (k) the amount of the allowance or sum fixed under section 93 ;
- (l) any matter relating to thekaders under section 107, 108, 111, 112 or 114, or to village headmen under section 115, 116, 120 or 121 ;
- (m) any claim against Government connected with, or arising out of, the collection of land-revenue, or the recovery of any sum which is realizable as land-revenue under this Act or any other enactment ;
- (n) the partition or union of mahals or pattis ;
- (o) the distribution of the land or apportionment of the land-revenue or sums payable under sub-settlement of a mahal or patti by partition or otherwise, or the determination of the rent to be paid by a co-sharer for land held by him after the partition in the mahal or the patti of another co-sharer ;
- (p) any claim in connection with the office or the fixation of the remuneration of patwari, sadar-lambardar, lambardar, mukaddam, patel or village-watchman, or in respect of any injury caused by the exclusion of any person from such office ;

- (g) any question connected with, or arising out of, the exercise of the powers under section 202 ;
- (r) any question connected with the allotment of house-sites in an abadi under section 203, sub-section (4), or the exception of an abadi under section 203, sub-sections (5), (6) and (7) from the provisions of section 203, sub-sections (1), (2), (3) and (4); and
- (s) any claim to compel the performance of any duty imposed by this Act on any Revenue Officer.

For what village-cesses suit lies.

**221.** No suit shall lie in any Civil Court for the recovery of any village-cess which has not been recorded under section 76 or 106, clause (f).

Limitation of claims for compensation in case of waste land demarcated as property of Government.

**222.** If, at any settlement made before this Act comes into force, waste lands have been demarcated as the property of Government, no claim of any person to, or in respect of, such lands shall be entertained by any Civil Court after the expiry of three years from the date of such demarcation.

When estate or mahal managed or farmed, or upon proclamation under section 133 or 135, rent payable to Deputy Commissioner.

**223.** If any estate, mahal, share or land is managed or let in farm under section 89, 90 or 95 or if a proclamation under section 133 or 135 has been issued, all sums due to the proprietor in respect of the estate, mahal, share or land specified in any of the said sections, shall be payable only to the Deputy Commissioner, his agent or lessee, and no payment made to such proprietor in anticipation of the usual time for such payment shall, without the sanction of the Deputy Commissioner, relieve the person making the same from his liability to the Deputy Commissioner, his agent or lessee.

Recovery of balances due by farmers.

**224.** If any estate, mahal, share or land has been let in farm under the provisions of this Act, any rent or revenue due from the farmer in respect of such estate, mahal, share or land may be recovered from him, his representative or surety as an arrear of land-revenue payable to Government.

Recovery of miscellaneous revenue.

**225.** Rents, fees and royalties due to Government for the use or occupation of land or water, whether the property of Government or not, or on account of any products thereof, and all moneys falling due to Government under any grant, lease or contract which provides that they shall be so recoverable, may be recovered under this Act in the same manner as an arrear of land-revenue.

Records open to public inspection.

**226.** (1) All records kept under this Act shall be open to public inspection at such times, and on such conditions as to fees or otherwise, as the Financial Commissioner may direct.

(2) A patwari shall produce any record or paper which he is required to maintain for the inspection of any person interested therein, and shall allow such person to take copies thereof.



227. (1) Subject to the control of the Chief Commissioner the Financial Commissioner may from time to time make rules for the purpose of carrying into effect the provisions of this Act and may, with the previous sanction of the Chief Commissioner, attach to the breach of any such rule a penalty which may extend to two-hundred rupees.

Financial Commissioner may make rules and attach penalty to breach thereof.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) the prescription of the duties of Tahsildars, Naib-Tahsildars, Superintendents of Land Records and Assistant Superintendents of Land Records, and regulating their postings and transfers ;
- (b) the regulation of the power of Revenue Officers to summon parties and witnesses under section 20 and the grant of expenses to witnesses ;
- (c) the regulation of recognised agents with regard to appearances, applications and acts done by them in proceedings under this Act ;
- (d) the regulation of the appointment of patwaris and revenue inspectors under sections 43 and 44, sub-section (2), respectively and of their qualifications, duties, punishment, suspension and dismissal ;
- (e) the prescription of the form of, and the additional particulars to be entered in, the papers to be included in the record-of-rights under section 45, sub-section (2) ;
- (f) the regulation of—
  - (i) the preparation of the annual papers of the mahal and of the recording of changes in respect of, and transactions in, land under section 47, sub-sections (1) and (2), respectively ; and
  - (ii) enquiries into and recording of transfers of possession under section 49, sub-section (1) ;
- (g) the regulation of the recording of land as sir-land under section 68, sub-section (2) ;
- (h) the prescription of the conditions as to the determination, recording, levying and other incidents of village-cesses under section 76 ;
- (i) the prescription of the matters in regard to which the Settlement Officer is to ascertain and record rights and customs under section 78, clause (c) ;
- (j) (i) the prescription of additional matters to be enquired into and recorded under section 108, sub-section (1) ;

- (ii) the regulation of the removal of thekadars with protected status and appointment of substitutes under section 112; and
- (iii) the regulation of the appointment of a successor to a protected headman under section 121;
- (k) (i) the guidance of Revenue Officers in issuing notices of demand under section 127 and executing the processes specified in section 128;
- (ii) the prescription of the classes of officers by whom the processes specified in section 128 may be enforced; and
- (iii) the prescription of the fees to be charged for the service or execution of processes issued by Revenue Officers, the mode in which such fees shall be collected and the agency by which such processes shall be executed;
- (l) the regulation of the recovery under section 157, sub-section (3), of amounts due by proprietors or by malik-makbuzas to a sadar-lambardar or lambardar;
- (m) the regulation of the suspension or remission, under section 158, sub-section (1), of sums payable under a sub-settlement or a lease of proprietary rights;
- (n) the guidance of Settlement Officers in making perfect partitions under section 185;
- (o) the regulation of—
  - (i) the appointment of lambardars, lambardar-gumashtas and sadar-lambardars, under section 187;
  - (ii) the removal from office of sadar-lambardars, lambardars and lambardar-gumashtas under section 189; and
  - (iii) the appointment of mukaddams and mukaddam-gumashtas under section 190; and their removal from office under section 195;
- (p) (i) the addition to the list of duties which a mukaddam is required to perform under section 193;
- (ii) the regulation of the liability of persons residing or holding land in any village for charges necessarily incurred by mukaddams in the performance of the duties specified in section 193, clause (c), in respect of such villages, and for apportioning such charges among such persons;
- (iii) the association with the mukaddam of a committee of residents of the village to assist him in carrying out his duties under section 193; and
- (iv) the determination of the officers to whom reports under section 193 shall be made;

- (g) (i) the regulation of the appointment, punishment, suspension and dismissal of kotwars or village watchmen ;
- (ii) the determination of the nature and amount of the remuneration which the kotwar or village watchman shall be entitled to receive ; and
- (iii) the prescription of the duties and mode of supervision of village watchmen ;
- (r) the regulation of the disposal of dead animals by the owners or persons in charge under section 200, sub-section (1) ;
- (s) the regulation of the imposition and realisation of premia under section 208, sub-section (2) ;
- (t) the regulation of the appointment of patels under section 209 and the prescription of their additional duties under section 210, clause (e) ;
- (u) the regulation of--
  - (i) the allotment of unoccupied land in raiyatwari villages under section 211 ;
  - (ii) the appointment of a co-sharer to be primarily responsible for the land-revenue under section 214 ;
  - (iii) the ejectment of raiyats under section 216, sub-section (1) ; and
  - (iv) the assessment under section 217, sub-section (1), clause (b), of sums payable in respect of land occupied in raiyatwari villages without authority ; and
- (v) generally for the guidance of Revenue Officers and all other persons in all proceedings under this Act.

228. (1) The power to make rules under section 202 and section 227, sub-section (2), clauses (g), (h), (i), (p), (q), (ii) and (r), shall be subject to the condition of the rules being made after previous publication.

Rules subject to previous publication in certain cases.

(2) No rule made under this Act shall take effect until it has been published in the Gazette.

229. All rules, assessments, appointments and transfers made, notifications and proclamations issued, authorities and powers conferred, farms and leases granted, records-of-rights and other records framed, revised, or confirmed rights acquired, liabilities incurred, times and places appointed, and other things done under any of the enactments hereby repealed shall, so far as may be, be deemed to have been respectively made, issued, conferred, granted, framed, revised, confirmed, acquired, incurred, appointed and done under this Act.

Extent of enactments saved.

230. The enactments, specified in the First Schedule, are repealed to the extent mentioned in the third column thereof.

Extent of enactments repealed

## SCHEDULE I.

(See Section 230.)

## NAME AND EXTENT OF THE ACTS REPEALED.

Acts repealed.		Extent of repeal.
Act No. XVIII of 1881 .	The Central Provinces Land Revenue Act, 1881.	The whole.
Act No. XVI of 1889 ...	An Act to amend the Central Provinces Land Revenue Act, 1881, and the Central Provinces Local Self-Government Act, 1883.	The whole, except section 41. <sup>1</sup>
Act No. XII of 1898 ...	The Central Provinces Land Revenue Act, 1898.	The whole.
Act No. XIII of 1908 ...	The Central Provinces Financial Commissioner's Act, 1908.	Do.

## SCHEDULE II.

(See Sections 10 and 12.)

## POWERS OF SUB-DIVISIONAL OFFICER.

	SECTIONS.
(1) To exercise in disputed cases regarding proprietary rights, the powers conferred on Deputy Commissioners ... ..	49
(2) To exercise the powers conferred on Deputy Commissioners in respect of the maintenance of boundary and survey-marks and of the boundary line in villages adjoining Government forest and in respect of disputes regarding boundaries ... ..	52, 53, 54, 55
(3) To confine defaulters in the Civil Jail ... ..	130
(4) To decide claims to property attached or proceeded against under Chapter X ... ..	132
(5) To exercise in respect of sales of immoveable property, the powers conferred on Deputy Commissioners ... ..	139, 141, 142, 143, 144, 145, 146, 147, 148, 150
(6) To recover arrears on behalf of sadar-lambardars and lambardars and proprietors ... ..	157
(7) To suspend or remit sums payable under a sub-settlement or lease ...	158
(8) To exercise the powers conferred on Deputy Commissioners by Chapter XI in partition cases, except the power of confirming partitions	161 to 186 excluding 181 and 182
(9) To remove sadar-lambardars, lambardars and lambardar-gumashtas ...	189

<sup>1</sup> Section 41 of Act XVI of 1889 is printed, *supra*, p. 131.

1917 : C. P. Act II.]	<i>Land Revenue.</i>	469
1917 : C. P. Act III.]	<i>Tenancy.</i>	
	[ <i>Schedule II.</i> ]	
		SECTIONS.

(10) To fix the remuneration of lambardars, lambardar-gumashtas and mukaddams ... ..	192
(11) To remove mukaddams and mukaddam-gumashtas ... ..	195
(12) To impose fines on mukaddams and mukaddam-gumashtas and on persons disobeying their orders ... ..	198, 199
(13) To impose fines, for failure or neglect to perform services, on persons in receipt of a village-cess ... ..	200
(14) To appoint patels ... ..	209
(15) To allot land in a raiyatwari village ... ..	211
(16) To permit leasing by raiyats ; to divide a survey-number and apportion the assessment thereof .. ...	212
(17) To appoint one of two or more co-sharers in a survey-number to be primarily responsible for the land-revenue ... ..	214
(18) To eject a raiyat or his transferee ... ..	216 (1), (2) and (5)
(19) To pass orders of assessment, fine, forfeiture or ejectment in the case of persons occupying land without authority in a raiyatwari village ... ..	217
(20) To eject trespassers on communal or Government land ... ..	219

#### POWERS OF AN ASSISTANT COMMISSIONER OF THE FIRST CLASS.

To exercise all or any of the powers conferred on a Sub-divisional Officer in such cases or classes of cases as the Deputy Commissioner may from time to time refer to him for disposal.

#### POWERS OF AN ASSISTANT COMMISSIONER OF THE SECOND CLASS.

To investigate and report on such cases as the Deputy Commissioner or the Sub-divisional Officer may from time to time refer to him for investigation and report.

### CENTRAL PROVINCES ACT No. III OF 1917.<sup>1</sup>

[THE CENTRAL PROVINCES TENANCY AMENDMENT ACT, 1917.]

XI of 1898. **An Act to amend the Central Provinces Tenancy Act, 1898.<sup>2</sup>**

WHEREAS it is expedient to amend the <sup>1</sup> Central Provinces Tenancy Act, 1898 ;

5 and 6 Geo. 5. C. 61. AND WHEREAS the previous sanction of the Governor-General, required by section 79, sub-section (2) of the Government of India Act, 1915, has been obtained to the passing of this Act ;

<sup>1</sup> For Statement of Objects and Reasons, see *Central Provinces Gazette*, 1915, Part VII, page 136 ; for Report of the Select Committee, see *ibid*, 1916, Part VII, page 9, and for Proceedings in Council, see *ibid*, 1915, Part VIII, pages 28 and 133 ; *ibid*, 1916, Part VIII, page 43, and *ibid*, 1917, Part VIII, page 88.

<sup>2</sup> *Supra*, p. 131.

It is hereby enacted as follows :—

Short title.

1. (1) This Act may be called the Central Provinces Tenancy Amendment Act, 1917 ; and

Commence-  
ment.

(2) It shall come into force on such day<sup>1</sup> as the Chief Commissioner may, by notification, direct.

Amendment  
of section 61,  
Act XI of  
1898.

2. After section 61 of the Central Provinces Tenancy Act, 1898, the XI of 1898, following section shall be added :—

[See *supra*. p. 156.]

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<sup>1</sup> The Act came into force on 1st September, 1917, see the *Central Provinces Gazette*, 1917, Part I, p. 669.

ACTS DECLARED IN FORCE IN, OR EXTENDED TO, THE  
SCHEDULED DISTRICTS OF THE CENTRAL PROVINCES BY  
NOTIFICATION UNDER THE SCHEDULED DISTRICTS ACT,  
1874.<sup>1</sup>

The Scheduled Districts of the Central Provinces are (see the Scheduled Dis-  
tricts Act, 1874,<sup>1</sup> First Schedule, Part VI)—

XIX of 1874.

*Chhattisgarh Zamíndárs, viz.:—*

1. Khariár.	9. Gondardehí.	17. Ohhúrí.
2. Bindrá Nawágarh.	10. Fingeswar.	18. Korbá.
3. Sahezpúr.	11. Pándariá.	19. Chapá.
4. Gándai.	12. Pendrá.	20. Borá Sámbar.
5. Silheti.	13. Mátín.	21. Phúljar.
6. Barbaspúr.	14. Uprorá.	22. Kolábirá.
7. Thákurtolá.	15. Kendá.	23. Rámpúr.
8. Lohará.	16. Láphá.	

*Chánda Zamíndárs.*

1. Ahíri.	8. Khutgáon.	15. Sirsundí.
2. Ambágarh Chauki.	9. Koráchá.	16. Sonsari.
3. Aundhí.	10. Kotgal.	17. Chándálá.
4. Dhanorá.	11. Muramgáon	18. Gilgáon.
5. Dúdhmálá.	12. Pánábáras.	19. Páwí Mutándá.
6. Gewardá.	13. Palasgarh.	20. Pategáon.
7. Jhárapáprá.	14. Rángi.	

*Chhindwára Jágirdárs.*

1. Haraí.	5. Baktágarh.	9. Almod.
2. Chháter.	6. Bardágarh.	10. Sonpúr.
3. Gerakhghát.	7. Pachmarhí.	11. Bariám Pagará.
4. Gorpání.	8. Partábgarh.	

The Scheduled Districts Act, 1874,<sup>1</sup> was brought into force in the Central Provinces by Notification No. 449, dated the 10th April, 1878, published in Gazette of India, 1878, Part I, p. 266 (and in Central Provinces Gazette, 1878, Part I, p. 88). That notification runs as follows:—

“In exercise of the powers conferred by section 3 of Act XIV of 1874<sup>1</sup> (the Scheduled Districts Act), the Chief Commissioner of the Central Provinces is pleased, with the previous sanction of the Governor General in Council, to declare that the said Act is in force in the following Scheduled Districts of the Central Provinces:—”

*(Here follows a list of all the Scheduled Districts, as printed supra.)*

<sup>1</sup> General Acts, Vol. II.

**LIST OF ACTS DECLARED IN FORCE IN, OR EXTENDED TO,  
THE SCHEDULED DISTRICTS OF THE CENTRAL PRO-  
VINCES BY NOTIFICATION UNDER THE SCHEDULED  
DISTRICTS ACT, 1874.**

Year.	No.	Subject.	Extent to which declared in force or extended.	Scheduled districts.	Notification.
<i>Acts of the Governor General in Council.</i>					
1889	XXXII <sup>1</sup>	Interest ...	So much as was on the 10th day of Dec- ember, 1879, in force in those parts of the Cen- tral Provin- ces which are not in- cluded in any Scheduled District.	Declared in force in all the Sched- uled Districts of the Central Provinces.	<p><i>The 10th December, 1879.</i></p> <p>No. 1385.—In exer- cise of the power conferred by section 3 of the Scheduled Districts Act, 1874, the Chief Commis- sioner of the Central Provinces is pleased, with the previous sanction of the Gov- ernor General in Council, to declare that so much of each of the enactments mentioned in the schedule hereto an- nexed as is in force in those parts of the Central Provinces which are not in- cluded in any Sched- uled District is in force likewise in the Scheduled Districts of those Provinces.</p> <p>Nothing herein con- tained shall be deem- ed to affect the operation of any en- actment in force in any of the said Scheduled Districts and not mentioned in the following Schedule.</p> <p>(Here follows the Schedule, which con- tains, among other enactments, Act XXXII of 1839.)</p> <p>[See Gazette of India, 1879, Part I, p. 771, Central Pro- vinces Gazette, 1879, Part I, p. 324.]</p>

<sup>1</sup> General Acts, Vol. I.



LIST OF ACTS DECLARED IN FORCE IN, OR EXTENDED TO,  
THE SCHEDULED DISTRICTS OF THE CENTRAL PRO-  
VINCES BY NOTIFICATION UNDER THE SCHEDULED  
DISTRICTS ACT, 1874—*continued*.

Year.	No.	Short title or subject.	Extent to which declared in force or extended.	Scheduled Districts.	Notification.
<i>Acts of the Governor General in Council—continued.</i>					
1841	XI <sup>1</sup>	<i>Military Courts of Requests.</i>	So much as was on the 10th day of December, 1879, in force in those parts of the Central Provinces which are not included in any Scheduled District.	Declared in force in all the Scheduled Districts of the Central Provinces.	See Notification No. 1386, <i>supra</i> , p. 472.
"	XIX <sup>2</sup>	The Succession (Property Protection) Act, 1841.			
1842	XII <sup>1</sup>	<i>Military Bazzars.</i>	Ditto ...	Ditto ...	Ditto.
1843	V <sup>2</sup>	The Indian Slavery Act, 1843.			
1847	XX <sup>3</sup>	<i>The Indian Copyright Act, 1847.</i>			
1850	XII <sup>2</sup>	The Public Accountants Defaults Act, 1850.	Ditto ...	Ditto ...	Ditto.
"	XVIII <sup>2</sup>	The Judicial Officers Protection Act, 1850.			
"	XIX <sup>2</sup>	The Apprentices Act, 1850.			
"	XXI <sup>2</sup>	The Caste Disabilities Removal Act, 1850.			
"	XXXIV <sup>2</sup>	The State Prisoners Act, 1850.			
"	XXXVII <sup>2</sup>	The Public Servants (Inquiries) Act, 1850.			

<sup>1</sup> Acts XI of 1841 and XII of 1842 were repealed by Act VIII of 1897 which has been repealed by Act XII of 1891 as spent.

<sup>2</sup> General Acts, Vol. I.

<sup>3</sup> Act XX of 1847 was repealed by the Indian Copyright Act, 1914 (III of 1914), which extends to the whole of British India.

LIST OF ACTS DECLARED IN FORCE IN, OR EXTENDED TO  
THE SCHEDULED DISTRICTS OF THE CENTRAL PRO-  
VINCES BY NOTIFICATION UNDER THE SCHEDULED  
DISTRICTS ACT, 1874—*continued*.

Year.	No.	Short title or subject.	Extent to which declared in force or extended.	Scheduled Districts.	Notification.
<i>Acts of the Governor General in Council—continued.</i>					
1852	XXXIII <sup>1</sup>	Enforcement of Judgments of Military Courts of Requests.	So much as relates to Military Courts of Requests and as was on the 10th day of December, 1879, in force in those parts of the Central Provinces which are not included in any Scheduled District.	Declared in force in all the Scheduled Districts of the Central Provinces.	See Notification No. 1385, supra, p. 472.
1853	II <sup>2</sup>	The Landholders Public Charges and Duties Act, 1853.	So much as was on the 10th day of December, 1879, in force in those parts of the Central Provinces which are not included in any Scheduled District.	Ditto ..	Ditto.
1854	XXXI <sup>2</sup>	The Conveyance of Land Act, 1854.	"	"	"
1855	XI <sup>2</sup>	The Mesne Profits and Improvements Act, 1855.	Ditto ...	Ditto ...	Ditto.
"	XII <sup>2</sup>	The Legal Representatives' Suits Act, 1855.	"	"	"

<sup>1</sup> Act XXXIII of 1852 was repealed by Act VIII of 1887.

<sup>2</sup> General Acts, Vol. I.

LIST OF ACTS DECLARED IN FORCE IN, OR EXTENDED TO,  
THE SCHEDULED DISTRICTS OF THE CENTRAL PROVIN-  
CES BY NOTIFICATION UNDER THE SCHEDULED DIS-  
TRICTS ACT, 1874—*continued*.

Year.	No.	Short title or subject.	Extent to which declared in force or extended.	Scheduled districts.	Notification.
<i>Acts of the Governor General in Council—continued.</i>					
1855	XIII <sup>1</sup>	The Indian Fatal Accidents Act, 1855.			
"	XXIV <sup>1</sup>	The Penal Servitude Act, 1855.			
"	XXVIII <sup>1</sup>	The Usury Laws Repeal Act, 1855.			
1856	XI <sup>1</sup>	The European Deserters Act, 1856.	So much as was on the 10th day of December, 1879. in force in those parts of the Central Provinces which are not included in any Scheduled District.	Declared in force in all the Scheduled Districts of the Central Provinces.	See Notification No. 1385, <i>supra</i> , p. 472.
"	XV <sup>1</sup>	The Hindu Widow's Remarriage Act, 1856.			
1857	XI <sup>1</sup>	The State Offences Act, 1857.			
"	XXV	The Forfeiture Act, 1857.			
1858	III <sup>1</sup>	The State Prisoners Act, 1858.			
"	XXX <sup>2</sup>	The Lunacy (District Courts) Act, 1858.			

<sup>1</sup> General Acts, Vol. I.

<sup>2</sup> Act XXXV of 1858 was repealed by the Indian Lunacy Act, 1912 (IV of 1912), which extends to the whole of British India.

LIST OF ACTS DECLARED IN FORCE IN, OR EXTENDED TO:  
THE SCHEDULED DISTRICTS OF THE CENTRAL PRO-  
VINCES BY NOTIFICATION UNDER THE SCHEDULED  
DISTRICTS ACT, 1874—*continued*.

Year.	No.	Short title or subject,	Extent to which declared in force or extended.	Scheduled Districts.	Notification.
<i>Acts of the Governor General in Council—continued.</i>					
1858	XXXVI <sup>1</sup>	<i>Lunatic Asylums.</i>	<i>So much as was on the 10th day of December, 1879, in force in those parts of the Central Provinces which are not included in any Scheduled District.</i>	<i>Declared in force in all the Scheduled Districts of the Central Provinces.</i>	<i>See Notification No. 1385, supra, p. 472.</i>
1859	III <sup>2</sup>	<i>Cantonment Joint Magistrate.</i>			
"	IX <sup>3</sup>	<i>The Forfeiture Act, 1859.</i>			
"	XV <sup>4</sup>	<i>Patents ...</i>			
1860	XXVII <sup>5</sup>	<i>Collection of Debts on Succession.</i>			
1863	XXXI <sup>3</sup>	<i>The Official Gazettes Act, 1863.</i>	Ditto	...	Ditto.
1864	III <sup>3</sup>	<i>The Foreigners Act, 1864.</i>			
"	VI <sup>3</sup>	<i>The Whipping Act, 1864.</i>			
1865	III <sup>3</sup>	<i>The Carriers Act, 1865.</i>			
1869	XV <sup>6</sup>	<i>Evidence of Prisoners.</i>			
1872	X <sup>7</sup>	<i>Code of Criminal Procedure.</i>			

<sup>1</sup> Act XXXVI of 1858 was repealed by the Indian Lunacy Act, 1912 (IV of 1912), which extends to the whole of British India.

<sup>2</sup> Act III of 1859 was repealed by Act VIII of 1887.

<sup>3</sup> General Acts, Vol. I.

<sup>4</sup> Act XV of 1859 was repealed by Act V of 1888 which has been repealed by the Indian Patents and Designs Act, 1911 (II of 1911), which extends to the whole of British India.

<sup>5</sup> Act XXVII of 1860 was repealed by the Succession Certificate Act, 1889 (VII of 1889), which extends to the whole of British India.

<sup>6</sup> Act XV of 1869 was repealed by the Prisoners Act, 1900 (III of 1900), which extends to the whole of British India.

<sup>7</sup> Act X of 1872 was repealed by Act X of 1882 which has been repealed by the Code of Criminal Procedure, 1898 (Act V of 1898) which extends to the whole of British India.

LIST OF ACTS DECLARED IN FORCE IN, OR EXTENDED TO,  
THE SCHEDULED DISTRICTS OF THE CENTRAL PRO-  
VINCES BY NOTIFICATION UNDER THE SCHEDULED  
DISTRICTS ACT, 1874—*continued*

Year.	No.	Short title or subject.	Extent to which declared in force or extended.	Scheduled Districts.	Notification.
<i>Acts of the Governor General in Council—continued.</i>					
1877	I <sup>1</sup>	The Specific Relief Act, 1877.	The whole Act	Extended to all the Scheduled Districts of the Central Provinces.	<i>The 10th December, 1879.</i> No. 1386.—In exercise of the power conferred by section 5 of the Scheduled Districts Act, 1874, the Chief Commissioner of the Central Provinces is pleased, with the previous sanction of the Governor General in Council, to extend the following Acts to the Scheduled Districts of the Central Provinces :— Act I of 1877 (The Specific Relief Act). * * * [See Gazette of India, 1879, Part I, p. 772; Central Provinces Gazette, 1879, Part I, p. 325.]
"	X <sup>2</sup>	Code of Civil Procedure.	The whole Code, except sections 1 and 3, and so much as authorizes the sale of immoveable property in execution of a decree not being a decree directing the sale of such property.	Ditto	See Notification No. 1386, supra.

<sup>1</sup> General Acts, Vol. II.

<sup>2</sup> Act X of 1877 was repealed by Act XIV of 1908. The latter Act has been repealed by the Code of Civil Procedure, 1908 (Act V of 1908), which has been extended to the Central Provinces under the Scheduled Districts Act, 1874, *see supra*.

LIST OF ACTS DECLARED IN FORCE IN, OR EXTENDED TO,  
THE SCHEDULED DISTRICTS OF THE CENTRAL PRO-  
VINCES BY NOTIFICATION UNDER THE SCHEDULED  
DISTRICTS ACT, 1874—*continued*.

Year.	No.	Short title or subject.	Extent to which declared in force or extended.	Scheduled Districts.	Notification.
<i>Acts of the Governor General in Council—continued.</i>					
1879	XII <sup>1</sup>	<i>Amending Code of Civil Procedure.</i>	<i>The whole Act, except so much as amends the Indian Registration Act, 1877, and the Indian Limitation Act, 1877.</i>	<i>Extended to all the Scheduled Districts of the Central Provinces.</i>	No. 1325, dated 22nd December, 1880, in Gazette of India, 1880, Part I, p. 701; Central Provinces Gazette, 1881, Part I, p. 7.
					<i>The 1st June, 1882.</i>
1882	XIV <sup>2</sup>	<i>Code of Civil Procedure.</i>	<i>The whole Act, except sections 1 and 3 and so much as authorizes the sale of immoveable property in execution of a decree, not being a decree directing the sale of such property.</i>	<i>Ditto</i>	No. 760. — In exercise of the power conferred by section 5 of Act XIV of 1874 (the Scheduled Districts Act, 1874), the Chief Commissioner of the Central Provinces is pleased, with the previous sanction of the Governor General in Council, to extend Act XIV of 1882 (the Code of Civil Procedure) to the Scheduled Districts of the Central Provinces, except sections 1 and 3, which are already in force, and so much thereof as authorizes the sale of immoveable property in execution of a decree, not being a decree directing the sale of such property. [See Gazette of India, 1882, Part I, p. 217; Central Provinces Gazette, 1882, Part I, p. 75.]

<sup>1</sup> The portion of Act XII of 1879 which was extended was repealed by Act XIV of 1882. See next footnote.

<sup>2</sup> Act XIV of 1882 was repealed by the Code of Civil Procedure, 1908 (Act V of 1908), which has been extended to the Central Provinces under the Scheduled Districts Act, 1874, see *infra*.

LIST OF ACTS DECLARED IN FORCE IN, OR EXTENDED TO,  
THE SCHEDULED DISTRICTS OF THE CENTRAL PRO-  
VINCES BY NOTIFICATION UNDER THE SCHEDULED  
DISTRICTS ACT, 1874—continued.

Year.	No.	Short title or subject.	Extent to which declared in force or extended.	Scheduled Districts.	Notification.
<i>Acts of the Governor General in Council—continued.</i>					
1888	VII <sup>1</sup>	<i>Amending Code of Civil Procedure.</i>	<i>The whole Act, except so much thereof as amends the Indian Registration Act, 1877, and the Indian Limitation Act, 1877.</i>	<i>Extended to all the Scheduled Districts of the Central Provinces.</i>	<i>The 28th August, 1888. No. 5099.—In exercise of the power conferred by section 5 of the Scheduled Districts Act, XIV of 1874, the Chief Commissioner of the Central Provinces, with the previous sanction of the Governor General in Council, extends to the Scheduled Districts of the Central Provinces the Civil Procedure Code Amendment Act, VII of 1888, except so much thereof as amends the Indian Registration Act, 1877, and the Indian Limitation Act, 1877, which is already in force. [See Gazette of India, 1888, Part I, p. 408; Central Provinces Gazette, 1888, Part II, p. 193.] The 8th May, 1889.</i>
"	X <sup>2</sup>	<i>The Presidency Small Cause Courts Law Amendment Act, 1888.</i>	<i>Sections 1 and 3.</i>	<i>Ditto</i>	<i>No. 2862.—In exercise of the power conferred by section 5 of the Scheduled Districts Act, XIV of 1874, the Chief Commissioner of the Central Provinces, with the previous sanction of the Governor General in Council, extends to the Scheduled Districts of the Central</i>

<sup>1</sup> Act VII of 1888 was repealed in part by Acts V and IX of 1908 and the residue was repealed by Act XVI of 1908. Act V of 1908 has been extended to the Central Provinces, see *infra*, and Acts IX and XVI of 1908 extend to the whole of British India.

<sup>2</sup> Act X of 1888 was repealed by Act V of 1908 which has been extended under the Scheduled Districts Act, 1874, see *infra*.

LIST OF ACTS DECLARED IN FORCE IN, OR EXTENDED TO,  
THE SCHEDULED DISTRICTS OF THE CENTRAL PROVINCES BY NOTIFICATION UNDER THE SCHEDULED DISTRICTS ACT, 1874—concluded.

Year.	No.	Short title or subject.	Extent to which declared in force or extended.	Schedule Districts.	Notification.
<i>Acts of the Governor General in Council—concluded.</i>					
1888	X—contd.	<i>The Presidency Small Cause Courts Law Amendment Act, 1888.</i>	...	...	<i>Provinces, sections 1 and 3 of Act X of 1888 (to amend the Code of Civil Procedure and the Presidency Small Cause Courts Act, 1882.)</i> [See Gazette of India, 1889, Part I, p. 292, Central Provinces Gazette, 1889, Part II, p. 87.] <i>The 8th March, 1909.</i>
1908	V <sup>1</sup>	The Code of Civil Procedure.	The whole Act except so much thereof as authorizes the attachment and sale of immoveable property in execution of a decree, not being a decree directing the sale of such property.	Extended to all the Scheduled Districts of the Central Provinces.	No. 504.—In exercise of the power conferred by section 5 of the Scheduled Districts Act, 1874 (XIV of 1874), the Chief Commissioner of the Central Provinces is pleased, with the previous sanction of the Governor General in Council, to extend to the Scheduled Districts of the Central Provinces, the Code of Civil Procedure, 1908 (V of 1908), except sections 1 and 155 to 158, which are already in force there, and so much thereof as authorizes the attachment and sale of immoveable property in execution of a decree, not being a decree directing the sale of such property. [See Gazette of India, 1909, Part I, page 239.]

<sup>1</sup> General Acts, Vol. VI.



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